



An
Bord
Pleanála

Inspector's Report

ABP-319300-24

Development

Permission is sought for an 18m telecommunications support structure, all associated equipment, with ground-based equipment and all ancillary site development works.

Location

Open Eir Exchange, River Road, Pelletstown, Dublin 15.

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

4643/23

Applicant(s)

Eir (Eircom Limited).

Type of Application

Planning Permission.

Planning Authority Decision

Grant with conditions.

Type of Appeal

Third Party.

Appellant(s)

Anna Lalor.

Observer(s)

1. Lisa Dahmani.
2. Michael Mullane.
3. PETNS Parents Teachers Association.

4. PETNS Board of Management.
5. Iryna Murashchenko &
Dagoberto Vaquedano.
6. Sinead Dunne.

Date of Site Inspection

17th day of July, 2024.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The appeal site has a stated 43.56m² area and it is located within the larger existing Eir Exchange plot of land on River Road (R102), in Pelletstown, Dublin 15. This existing utility site is located on the southern side of River Road, at a point where it has a curving alignment, c0.7km to the west of River Roads junction with the Ratoath Road and c0.9km to the east of its junction with Dunsinea Lane. To the south of the site is Pelletstown Educate Together National School and further to the south is the mainly residential area which includes the estates of Rathborne Vale and Pelletstown Avenue. To the north west of the site there is the Tolka Valley Park which is densely populated with vegetation and semi-mature trees. To the immediate west and east of the Eir Exchange plot of land are pockets of undeveloped greenfield land.
- 1.2. The surrounding area to the south of River Road has undergone significant change in recent decades and has a strong residential character. The land on the opposite side of River Road consists of the Tolka Valley Park.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following:
 - Installation of an 18m telecommunications support structure carrying antennas, remote radio units (RRUs), GPS beacon and associated equipment, together with ground-based equipment and cabinets.
 - All associated site development works.
- 2.2. The description of the development indicates that the proposed mast would provide high speed wireless data and broadband services. Additionally, the application is accompanied by the following documentation:
 - Cover Letter
 - Consent from the Landowner
 - Planning Statement
 - Photomontage Report
 - Copy of ICNIRP Compliance Certificate

- 2.3. On the 29th day of January, 2024, the applicant submitted their further information response which comprised of an additional Photomontage Report and 9 additional viewpoint locations.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 26th day of March, 2024, the planning authority issued notification of a decision to **grant** permission subject to 6 no. mainly standard conditions. Of note:

Condition No. 2 &3: Drainage.

Condition No. 4: Restriction on Construction Hours.

Condition No. 5: Noise Restrictions.

Condition No. 6: Ensure that public roads are kept clean and safe.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **final Planning Officer's report** is the basis of the Planning Authority's decision. It included the following comments:

- The visual impact of the proposed development is localised and moderate.
- The further information response is adequate.
- Concludes with a recommendation to grant permission as per Section 3.3.1 above.

The **initial Planning Officer's report** concluded with a **further information request**. It included the following comments:

- The 'proposed Eir Mobile AC isolator' and 'proposed Eir Mobile Power Ducting Cable' are shown to be excluded from the red line area.
- This development is compatible with 'Z15' land use zoning of the site.
- Lands in the vicinity of the Eir Exchange site which was granted in 2001 has become more sensitive to change as a result.

- No details have been provided in respect of the nature, location of operator of the other mast which could potentially be removed.
- Concern is raised about the visibility of the telecommunications structure and its potential to detract from the visual amenities of the area.
- Residential amenity concerns raised.
- Concerns raised in terms of the adequacy of the photomontages provided.
- Health and safety emission concerns are outside of the Planning Authority's remit.
- Nuisance arising during construction can be dealt with by conditions.
- No AA or EIA issues arise.

3.2.2. Other Technical Reports

Drainage: No objection, subject to safeguards.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. 26 No. Third Party Observations were received by the Planning Authority during the course of its determination of this application. The substantive issues raised in them correlate with those raised by the Third Parties in this appeal case.

4.0 Planning History

4.1. Site

P.A. Ref. No. 1763/01: Permission was **granted** subject to conditions for the erection of a single storey (72m²) telephone exchange together with all associated site works.

4.2. Site & Setting

ABP-317930-23 (P.A. Ref. No. RZLT-000176)

Location: One Royal Canal House, Royal Canal Park, Dublin 15 (Note: The subject site forms part of the lands to which this application relates).

The Board in this appeal case confirmed the Planning Authority's determination that the site does satisfy the criteria for inclusion on the map set out in section 653B(c) of the Taxes Consolidation Act 1997, as amended.

Decision date: 23.10.2023.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The **Dublin City Development Plan, 2022-2028**, is the operative plan, under which the site forms part of a larger parcel of land zoned 'Z15 - Community and Social Infrastructure'. The stated objective for 'Z15' zoned land is: *"to protect and provide for community uses and social infrastructure."* Permissible land uses include xx The land bounding the eastern boundary of the Eir Exchange lands is zoned 'Z1 – Sustainable Residential Neighbourhoods'. The land on the opposite side of River Road is zoned 'Z9 – Amenity/Open Space Lands/Green Network' and is also a red hatched conservation area. This area relates to the Tolka Valley Park with recorded monuments 014.074 to the west and 014.075 to the east. Additionally, the site forms part of lands subject to an LAP &/or SDZ
- 5.1.2. Section 14.7.14 of the Development Plan states: *"Z15 lands comprise a variety of sites, often consisting of long established complexes of institutional/community buildings and associated open grounds. The existing uses on these lands generally include community, social or institutional development such as schools, colleges, sports grounds, residential institutions and healthcare institutions, such as hospitals. Such facilities are considered essential in order to provide adequate community and social infrastructure commensurate with the delivery of compact growth and the principle of the 15-minute city. It is the policy of the Council to promote the retention, protection and enhancement of the city's Z15 lands as they contribute to the creation of vibrant neighbourhoods, healthy placemaking and a sustainable well-connected city".*
- 5.1.3. Public Service Installations which are defined under Appendix 15 of the Development Plan as: *"a building, or part thereof, a roadway or land used for the provision of public services including those provided by statutory undertakers. Public services include all*

service installations necessary for electricity, gas, telephone, radio, telecommunications, television, data transmission, drainage, including wastewater treatment plants” are a permissible land use on ‘Z15’ zoned lands.

- 5.1.4. Section 14.6 of the Development Plan deals with the matter of ‘Transitional Zone Areas’ and states: *“it is important to avoid abrupt transitions in scale and land-use between zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. For instance, in zones abutting residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals, and to landscaping and screening proposals, in order to protect the amenities of residential properties”*.
- 5.1.5. Section 9.5.11 of the Development Plan deals with the matter of ‘Digital Connectivity Infrastructure’ and it indicates that there is a *“rapidly evolving digital connectivity sector is a key enabler of numerous economic, social and educational activities”* with the sector covering access to *“broadband, digital fibre services and wireless connectivity such as Wi-Fi, satellites and wired technologies”*. It states that: *“high quality digital connectivity infrastructure, both fixed and wireless, is essential to supporting Dublin’s technology and digital service sectors and plays a central role in supporting the delivery of city services and the Internet of Things. The demand for super connectivity and the importance of secure and reliable communications networks will increase over the coming years as we enter a new era of 5G connectivity”*.
- 5.1.6. Policy SI45 - Support for Digital Connectivity is of relevance. It states: *“to support and facilitate the sustainable development of high-quality digital connectivity infrastructure throughout the City in order to provide for enhanced and balanced digital connectivity that future-proofs Dublin City and protects its economic competitiveness”*.
- 5.1.7. Policy SI48 - Sharing and Co-Location of Digital Connectivity Infrastructure is of relevance. It states: *“to support the appropriate use of existing assets such as lighting, traffic poles and street furniture for the deployment of telecoms equipment and to encourage the sharing and co-location of digital connectivity infrastructure (including small cells, access points, communications masts and antennae) in order to avoid*

spatially uncoordinated and duplicitous provision that makes inefficient use of city space and negatively impacts on visual amenity and built heritage”.

5.1.8. Objective SIO27 seeks to support and facilitate the delivery of the National Broadband Plan.

5.1.9. Section 15.18.5 of the Development Plan deals specifically with Telecommunications and Digital Connectivity. It states that: *“all new developments will be required to provide for open access connectivity arrangements directly to individual premises to enable service provider competition and consumer choice in line with Policy SI46 of the development plan”* and that: *“the provision and siting of telecommunications antennae shall take account of the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, (Department of Environment and Local Government, 1996), as revised by DECLG Circular Letter PL 07/12, and any successor guidance”*. In terms of preferred locations, it indicates that telecommunications antennae and supporting structures should be located in industrial estates or on lands zoned for industrial employment uses. It also sets out that: *“possible locations in commercial areas, such as rooftop locations on tall buildings, may also be acceptable, subject to visual amenity considerations. In terms of the design of free-standing masts, masts and antennae should be designed for the specific location”*. It also states: *“where existing support structures are not unduly obtrusive, the City Council will encourage co-location or sharing of digital connectivity infrastructure such as antennae on existing support structures, masts and tall buildings (see Policy SI48). Applicants must satisfy the City Council that they have made every reasonable effort to share with other operators”*.

5.1.10. Policy BHA9 of the Development Plan is relevant. It states: *“to protect the special interest and character of all Dublin’s Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible”*. It indicates a number of enhancement opportunities including: 3) *“improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns”*.

5.2. Regional

- 5.2.1. **Regional Spatial & Economic Strategy for the Eastern Midlands Regional Assembly, 2019-2031:** Of note Section 11.2 states: *“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”*.

5.3. National

- 5.3.1. **National Planning Framework (NPF) – Ireland 2040 Our Plan, 2018.**

This document is a planning framework to guide development and investment over the coming years. The companion to this document is the National Development Plan, a ten-year strategy for public capital investment of almost €116 Billion. Of note 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 also sets out National Strategic Outcomes. In this regard, National Strategic Outcome 5 - A Strong Economy Supported by Enterprise, Innovation and Skills states that: *“Data innovation is recognised as important for future growth. Harnessing the potential of the data economy can bring considerable benefits in terms of productivity, new services and knowledge creation. It is also recognised that emerging disruptive technology and innovation has the potential to accelerate the delivery of NPF National Strategic Outcomes. In the short term, opportunities provided by access to high quality broadband services will be fully exploited through the roll-out of the State intervention segment of the National Broadband Plan, delivering a step-change in digital connectivity and ensuring that coverage extends to remoter areas including villages, rural areas and islands”*.

It also supports the implementation of the National Broadband Plan.

- 5.3.2. **Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996.**

These Guidelines set out the criteria for the assessment of telecommunications structures. Of relevance to the subject of this case is Section 4.3. It states:

“Only as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. 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. The support structure should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure”.

Further Section 4.5 of the Guidelines which deal with the matter of ‘Facilities and Clustering’ states:

“Sharing of installations (antennae support structures) will normally reduce the visual impact on the landscape. The potential for concluding sharing agreements is greatest in the case of new structures when foreseeable technical requirements can be included at the design stage. All applicants will be encouraged to share and will have to satisfy the authority that they have made a reasonable effort to share. Where the sharing of masts or towers occurs each operator may want separate buildings/cabinets. The matter of sharing is probably best dealt with in pre-planning discussions.

Where it is not possible to share a support structure the applicant should, where possible, be encouraged to share a site or to site adjacently so that masts and antennae may be clustered. On hill tops clustering may not offer any improvement from the point of view of visual intrusion but in urban or suburban areas use of the same structure or building by competing operators will almost always improve the situation.”

5.3.3. Circular Letter PL07/12

This Circular Letter revises elements of the 1996 Guidelines, in particular:

- Section 2.2 advises Planning Authorities to cease attaching time limiting conditions to telecommunications masts, except in exceptional circumstances.
- Section 2.3 advises Planning authorities against including separation distances from housing and schools as they can inadvertently have a major impact on the roll out of a viable and effective telecommunications network.

- Section 2.4 advises that the lodgement of a bond or cash deposit is no longer appropriate and instead advises that a condition be included stating that when the structure is no longer required it should be demolished, removed and the site re-instated at the operators' expense.
- Section 2.6 advises that planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds. Additionally, it advises that 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. These are regulated by other codes and such matters should not be additionally regulated by the planning process.

5.4. Other

- 5.4.1. **National Broadband Plan, 2020**, is an initiative by the Irish Government aimed at delivering high speed broadband services to all premises in Ireland.
- 5.4.2. Regulation 2016 - SI No 391 of 2016 - **Broadband Cost Reduction Directive** pursuant to Directive (EU) 2014/61/EU.
- 5.4.3. Regulation (EU) 2020/911 of 30 June 2020 pursuant to Article 57(2) Directive (EU) 2018/1972, which established the **European Electronic Communication Code**.

5.5. Natural Heritage Designations

- 5.5.1. None in the vicinity.

5.6. EIA Screening

- 5.6.1. The proposed development sought under this application is not listed in either Part 1 or Part 2 of Schedule 5, Planning and Development Regulations 2001 (as amended), which sets out the types and thresholds of development that requires a mandatory EIA. I have also assessed it against the criteria outlined in Schedule 7 of the Planning and Development Regulations, 2001, (as amended), and the provisions of Article 109, (3) of the Regulations.
- 5.6.2. Under the provisions of Article 109, (3) of the Regulations, it is noted that the site is not located within a European site, is not designated for the protection of the landscape

or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site.

- 5.6.3. The proposed development is minor in nature, scale and extent. It will not require any significant ground works or construction methods. The site is a brownfield site comprising of an operational telecommunications exchange. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that after a pre-screening exercise an environmental impact assessment report for the proposed development was not necessary in this case.
- 5.6.4. This conclusion correlates with Appendix 1 - Pre-Screening Form attached to this report.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal can be summarised as follows:
- The Planning Authority's decision is not supported.
 - The proposed development was granted without due consideration to the significant and long-lasting negative impacts this development would have on the adjoining school and community as well as an examination of alternative sites.
 - Planning provisions provide that the choice of location beside schools is least favoured and is a last resort location.
 - The photomontages are not accepted in providing an accurate representation of visual impacts of this mast on its setting. They down play the actual impact in terms of its height and the visual impact on the school, surrounding homes and schools.
 - The mast will negatively impact on the value of homes in its vicinity.
 - This development raises significant health concerns.
 - Concerns are raised in relation to the Site Notice.

- Section 4.3 of the 1996 Guidelines sets out an order of preference for the location of mobile antennae and related infrastructure with this including electrical substations.
- The applicant in error describes the site of the Eir Exchange as an industrial area. This is not the case.
- Pelletstown ESB substation is located 550m from the site and is within the cell area as well as has electricity pylons between 12 and 18m in height which would mitigate the visual impact of the proposed mast. It also occupies a higher ground level than the subject site.
- The decision of the Planning Authority is flawed as a result of their failure to have regard to the hierarchy set out in the 1996 Guidelines.
- A concern is raised that the applicant centres their search on the site of this application rather than the area where there is reduced quality of service.
- A number of the masts in the area have been excluded from investigation of suitability for colocation.
- The applicant in relation to Mast Number 2 states that the mast provided coverage for Ballybogan Road and Spindrift Avenue as well as states that there is too much vegetation between it and the target area. Yet in actuality there is practically no vegetation present. It is also noted that this mast is on a five-storey building and that the area in between relates to lower valley landscape.
- There are additional incentives for the applicant to make use of their own sites rather than the costs associated with colocation on sites that they are not in ownership of.
- The school's playground is within 12m of the mast and its nearest school building is within 40.5m. Additionally, the rooftop of the school building is 6.9m lower than the proposed mast.
- The applicant also took pictures on a wet day for the viewpoints where visibility is most material.
- Visually the mast is an industrial in appearance structure which would clash sharply with the established residential setting.

- The bank of land to the east of the site for which it is proposed to be developed in future would be impacted by the presence of this mast.
- The visual intrusion of the mast from the school raises concerns over the aesthetic appeal of its environment and its potential negative impact on the learning as well as wellbeing of its students.
- An examination of ComReg Maps shows that this location already enjoys very good coverage with no identified black spots and the only location where coverage dips to good is within Tolka Valley Park and the Scribblestown area. These are mainly green space and agricultural land. The necessity of the mast is therefore questioned and the areas where there is poorer coverage would be more suitably served by a mast at the ESB substation location.
- The planned roll out of fibre to the area will bring high speed broadband and will address areas with slower broadband speeds.
- A precautionary approach should be had to locating masts at this sensitive location.
- Children are at greater risk of harm from proximity to mast structures and their base station antenna.

6.2. Applicant Response

6.2.1. The First Party's response can be summarised as follows:

- The purpose of this application is to provide wireless high-speed data and broadband services due to the growth in customer demand locally and to meet their 3G (data) and 4G (high speed data) coverage objectives for this part of Pelletstown.
- The site is an ideal location for a telecommunications structure due to the existing utility site where no change of use is proposed and where there is dense planting of mature trees as well as the presence of vertical infrastructure around the site. As such the mast will not be seen as an isolated or prominent structure in the area.
- There is provision made for the co-location of a second operator on this mast.
- They are also open to painting it a dark fir green should that be deemed more preferable.

- The monopole structure is slim lined and unfussy. It would be adjacent to existing semi-mature and mature trees so that it could avail of maximum screening.
- The height of the structure has been kept to an absolute minimum and it would be an unobtrusive feature in its setting.
- Consideration has been given to technical, engineering, environmental, health and safety as well as land use planning viability in the siting and design of the proposed telecommunications installation sought under this location.
- This location is the optimum one to reduce the total number of masts in the immediate area from two to a single structure.
- A technical justification is provided that the site is an area that Eir do not provide adequate indoor service or capacity for high-speed mobile broadband in some locations.
- Site choice must meet the characteristics of being environmentally suitable; be available at reasonable commercial terms; be capable of being developed; have safe and satisfactory vehicular access for construction and future maintenance/servicing; afford reasonable security through to be supplied with power or capable of having an economic supply connected to. Additionally, the proposed site must be sited in the cell search area in order to achieve radio coverage 3G and 4G objectives as well as capable to maintain the communication transmission links for the mobile operator.
- 5 alternative options were investigated, and it was concluded that there were no suitable structures or existing masts which would be capable of providing both the required transmission links as well as the level of 3G and 4G coverage sought.
- It is not accepted that the photomontages misrepresent the proposed development.
- No adverse amenity impacts would arise.
- Property prices are not a planning consideration.
- The nearest dwelling is located approximately 71m to the southeast of the site which is considered acceptable distance with the Board having permitted previous masts at similar distances in the past.

- The applicant is required to comply with emission limits regulated nationally by the Commission for Communications Regulations and no adverse health impacts are predicated.
- This application accords with proper planning and sustainable planning provisions.

6.3. Planning Authority Response

6.3.1. None.

6.4. Observations

6.4.1. The following Third-Party Observations were received:

- Iryna Murashchenko & Dagoberto Vaquedano
- Pelletstown ETNS Board of Management
- Sinead Dunne & Others.
- Micheal Mullane
- PETNS Parents Teacher Association
- Lisa Dahmani & Others.

As these observations collectively seek that the Board overturn the decision of the Planning Authority and I consider that they contain overlapping concerns have decided to collectively summarise them under the following broad headings as follows:

Suitability of the Site

- The site's proximity to Pelletstown Educate Together National School is a last resort location under the 1996 Guidelines.
- The applicant has provided insufficiently justification to locate their proposed development at this site that adjoins a school and is in close proximity to residential properties.
- The site is chosen on convenience of ownership.

Broadband Provision

- The necessity of this development is not based on the actuality of broadband coverage in this area.

- The area around the mast site already benefits from very good coverage.
- The alternative sites are based on a central focus with the site at its centre as opposed to where there is a reduced quality of service and capacity.
- Alternative forms of high-speed data are already or will be soon provided via fibre roll out in this area (Note: fibre-to-the-home).
- The ComReg maps for the River Road, Pelletstown, Rathborne, Royal Canal Avenue, Scribblestown, Woodbank and Valley Park shows that these areas for which the mast is to serve already have very good coverage from the applicant, with no identified black spots. Much of these areas already have landline broadband access of at least 100Mbps and many with speeds of up to 2Gbps according to Eir maps which shows existing coverage.

Planning Provisions

- The grant of permission is contrary to proper planning and sustainable development of the area.
- Alternative sites include examination of substations prior to examining last resort locations like this site. In this case the applicant has failed to carry out a robust examination of alternative locations including those set out within the hierarchy of the 1996 Guidelines.
- An appropriate balance needs to be achieved between the perceived necessity of servicing the immediate area with indoor high speed mobile broadband services and the protection of the character of the area as well as the visual and educational amenity of the school.
- The land use zoning of the site is to protect and provide for community uses and social infrastructure and telecommunication masts are not listed under permissible and open for consideration uses.
- The ruling out of colocation of the Three Mast on the Ballymore Office block is not credible as it is not the case that there is much vegetation that could get in the way of this 5-storey building as the only vegetation is in the valley below. The Three coverage maps show there is good indoor and outdoor coverage for 2G, 3G, 4G and 5G technologies in all areas mentioned as experiencing low indoor coverage by the applicant.

- The coverage area to be serviced shows a number of existing masts which were not considered.
- The Development Plan under Policy SI148 supports co-location and sharing of digital connectivity infrastructure.

Visual Impacts

- The 1996 Guidelines set out that visual impact is among the more important considerations to be considered in this type of application.
- The mast would be an industrial in appearance and would adversely diminish the visual amenities as well as character of the area.
- This development would impinge unduly on the skyline.
- This development would be highly visible as well as dominant and overbearing as viewed from the school buildings and its associated spaces. With spaces including a sensory garden and basketball court which it would be highly visible from.
- It is not accepted that this existing site is one that is legible as industrial in character but rather the existing building on site could be easily mistaken for a residential building.
- The photomontages downplay the actual visual impact that would arise.
- Observers with direct views towards the mast structure raise concern that this industrial structure would be a daily and inescapable reminder of its presence severely impacting upon the quality of life and enjoyment of their homes.
- The mast would visually adversely impact the enjoyment of the Tolka Valley Park.

Health Impacts

- There is uncertainty to the long-term health implications from such developments, in particular for children. Particular concerns arise from exposure to radio frequency radiation (RFR), electromagnetic fields (RFR), non-ionising radiation.

- The ICNIRP limits are not suitable for assessing the risks of long-term exposure for children in the immediate vicinity of a mast every day over their full primary school attendance.

Residential Amenity Impacts

- Devaluation of residential properties in the vicinity. The combination of perceived risk, visual impacts and buyer preferences creates a genuine potential of buyers avoiding buying homes near phone masts.
- The mast structure is unduly close to properties at Rathborne Vale.

Other

- The precautionary principle should apply in the consideration of this application.

6.5. Further Responses

- 6.5.1. The Third-Party Appellants further response raises no new planning issues.

7.0 Assessment

7.1. Preliminary Comment

- 7.1.1. This is a Third-Party appeal against the Planning Authority's decision to grant permission for a development that consists of the installation of an 18m Telecommunications Support Structure with carrying antennas, remote radio units (RRU's), GPS Beacon and associated equipment. The proposed development also includes ground-based equipment, cabinets and all associated site development works for a development whose purpose is to provide high speed wireless data and broadband services which arises from the growth in customer demand in the Tolka Valley location in Dublin 15.
- 7.1.2. In relation to the development sought the applicant contends that their current sites in the Pelletstown area do not provide adequate indoor service or capacity for high-speed mobile broadband coverage in some locations. Specifically, they note around River Road, Pelletstown, Rathborne, Royal Canal Avenue, Scribblestown, Woodbank, Valley Park and their surrounding areas.
- 7.1.3. In these particular areas the applicant contends that their customers experience reduced quality of service and capacity. Therefore, a mobile base station deployment

at the subject site would greatly support their customer base in this locality and in turn would improve the overall network capacity to improve broadband speeds for users.

7.1.4. The Third-Party Appellant on the other contend that the proposed development, if permitted, would give rise to a multitude of adverse impacts. With these listed as including visual, residential, health through to being a type of development that would conflict with local through to national planning provisions for such structures.

7.1.5. The First Party does not concur that this would be the case and they seek that the Board uphold the Planning Authority's decision to grant permission to the development sought under this application.

7.1.6. I consider the key planning issues relating to the assessment of this appeal case can be considered under the following broad headings:

- Principle of the Proposed Development
- Reasoned Justification / Suitability of Location / Consideration of Alternatives
- Amenity Impact – Residential & Visual
- Public Health Impact
- Other Matters Arising

7.1.7. The matter of 'Appropriate Assessment' also requires examination.

7.1.8. For clarity, I am satisfied that the proposed development sought under this application gives rise to no other substantive issues. In that regard I consider that matters such as drainage, traffic, construction nuisance, future alterations to the mast through to the provision of appropriate material and boundary treatments can be dealt with by way of appropriately worded standard conditions.

7.2. Principle of the Proposed Development

7.2.1. The appeal site is zoned 'Z15' under the operative Development Plan which has a land use objective to protect and provide for community uses as well as social infrastructure. It forms part of a larger parcel of land that contains a telephone exchange building which was granted permission under P.A. Ref. No. 1763/01 and there is accompanying letter of consent for the making of this application by Open Eir who own this site.

- 7.2.2. According to Section 14.7.14 of the said Plan the City Council are committed to strengthening the role of 'Z15' lands and that they will actively discourage the piecemeal erosion and fragmentation of such lands.
- 7.2.3. Further, this section of the Development Plan sets out that commercial developments will only be allowed in highly exceptional circumstances where it can be demonstrated by the landowner/applicant that the proposed development is required in order to maintain or enhance the function/ operational viability of the primary institutional/social/community use on the lands.
- 7.2.4. In this regard the Development Plan sets out a number of criteria for consideration of development on these lands. Including that the future anticipated needs of the existing use, including extensions or additional facilities thereon, would not be compromised. It also seeks that it is demonstrated that the development is subordinate in scale to the primary use and that it does not compromise the open character of the site. Telecommunications masts are not identified as a permissible or open for consideration use.
- 7.2.5. I note that the documentation as submitted with this application does not seek to directly demonstrate its compliance with the development criteria for 'Z15' zoned land as set out under Section 14.7.14 of the Development Plan through to other matters for consideration on such zoned land are unclear. Including how the provision of mast structure at this location would be consistent with achieving the primary land use objectives of Z15 zoned land through to whether or not this proposal would, if permitted, compromise the primary telephone exchange operations of this site through to its future operations.
- 7.2.6. While I accept that technology and infrastructure has significantly changed and evolved since this telephone exchange became operational over 20 years ago. In saying this it is not made clear how the proposed development would be subordinate in scale to the existing use. With for example this telephone exchange which in terms of structures contains two single storey modest in built form structures not being highly visible in the larger 'Z15' landbank which at this location bounds the important open space provision of Tolka Valley Park. With Tolka Valley Park subject to 'Z9' land use zoning and being a red hatched 'Conservation Area' that is an important amenity space for its surrounding locality.

- 7.2.7. I note, however, that the Planning Authority in their determination of this application considered that the proposed development met the definition of '*Public Service Installation*' having regards to its definition under Appendix 15 of the said plan. In this regard they considered it to be a permissible use given that this is a type of land use identified under Section 14.7.14 of the Development Plan as being permissible, subject to safeguards.
- 7.2.8. On this point I note that Eir was in majority state ownership up until 1999. This is not the current situation as it is in private ownership and as a private commercial entity it is driven by the generation of profits. The definition provided under Appendix 15 of the Development Plan on the matter of public service installations indicate that these land uses are the provision of public services and include those provided by statutory undertakers.
- 7.2.9. In this case I do not consider that the applicant meets the definition of being a statutory undertaker and that the service they provided is one that whilst providing a valuable contribution to the public beyond this location by supporting economic prosperity through to social development by way of its telecommunications-based service provision. This important contribution is in my view acknowledged in the Development Plan which under Section 9.5.11 on the matter of '*Digital Connectivity Infrastructure*' describes it as key enabler of numerous economic, social and educational activities. It also states that: "*high quality digital connectivity infrastructure, both fixed and wireless, is essential to supporting Dublin's technology and digital service sectors and plays a central role in supporting the delivery of city services and the Internet of Things*". Further, it is supported by policies including Policy SI45 which seeks: "*to support and facilitate the sustainable development of high-quality digital connectivity infrastructure throughout the City in order to provide for enhanced and balanced digital connectivity that future-proofs Dublin City and protects its economic competitiveness*".
- 7.2.10. In this context the proposed telecommunications structure would be acceptable in principle subject to safeguards given the established use of the site and the synergy of the proposed development with this use. With the established use of the site an integral aspect of utility services in this location which supports a plethora of land uses in the changing in character urbane landscape to the south of River Road, including its transformation into a predominantly residential in use setting. But also, such infrastructure supports education, business, and land uses in this location and this

type of infrastructure is one that is not provided by a statutory undertaker or other public body.

- 7.2.11. In addition to the above as part of considering the principle of the proposed development I consider that regard should be had to the transitional zoning character of the area. With the 'Z15' land use zoning applicable to small parcel of land that extends to a small pocket of unkept greenfield land to the west and encompasses the adjoining Pelletstown Educate Together National School. With the land to the immediate west of the Eir Exchange site zoned 'Z1 – Sustainable Residential Neighbourhoods' and with the immediate surrounding zoned 'Z9 – Amenity/Open Space Lands/Green Network' and additional 'Z1' lands.
- 7.2.12. I therefore note to the Board that Section 14.6 of the Development Plan on the matter of 'Transitional Zone Areas' states: *"it is important to avoid abrupt transitions in scale and land-use between zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones"*.
- 7.2.13. This section of the Development Plan also provides an example of zones abutting residential areas that particular attention must be paid to the use, scale, density and design of development proposals, and to landscaping and screening proposals, in order to protect the amenities of residential properties.
- 7.2.14. Under Section 14.3 it also provides clarity on land uses that are not listed as permissible or open for consideration in land use zones that includes Z15 and sets out that there will be a general presumption against them.
- 7.2.15. In addition to local planning context, it is of note that the Regional Spatial & Economic Strategy (RSES) for this location acknowledges that telecommunications networks play a crucial role in enabling social and economic activity. It also recognises that it supports actions to strengthen communications links to develop a stable, innovative and secure digital communications and services infrastructure.
- 7.2.16. Further, at a national planning context level the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996, and Circular Letter PL07/12 Telecommunications Antennae and Support Structures promote the provision of modern telecommunications infrastructures throughout the country.

7.2.17. Conclusion: Having regards to the above, whilst I consider that local, regional and national planning policy provisions in tandem support the provision of adequate telecommunications including broadband and in this general context the principle of the proposal is acceptable. Notwithstanding, I consider that the acceptability of this proposed development at this location should be determined on its merits having regards to the locational attributes of its setting and in this context whether or not it has the capacity to absorb it in a manner that demonstrates it accords with the proper planning and sustainable development of the area.

7.3. Reasoned Justification / Suitability of Location / Consideration of Alternatives

7.3.1. Section 15.18.5 of the Development Plan seeks to promote best practice in siting masts. It indicates that the preferred location is in industrial estates or on lands zoned for industrial/employment uses. It also indicates that the provision and siting of telecommunications antennae shall take account of the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, (Department of Environment and Local Government, 1996), as revised by DECLG Circular Letter PL 07/12, and any successor guidance. Through to it sets out that in assessing: *“proposals for telecommunication antennae and support structures, factors such as the object in the wider townscape and the position of the object with respect to the skyline will be closely examined. These factors will be carefully considered when assessing proposals in a designated conservation area, open space amenity area”* and that applicants must satisfy the City Council that they have made every reasonable effort to share with other operators.

7.3.2. It is therefore a concern that firstly the site is not one that is located within an industrial estate, or lands zoned for industrial/employment uses and as discussed in the previous section that the documentation provided with this application fails to demonstrate how it is consistent with the circumstances where development are deemed to be acceptable on ‘Z15’ zoned lands. Given that the telecommunications support structure and the associated works on this site is in essence related to the applicant’s commercial activities in this area in terms of the provision to its customers improved high-speed wireless data and broadband services (particularly) 3G and 4G coverage in this location. A location as described in Section 1 of this report above as forming part of the lands on the southern side of River Road that have undergone and are in the process of significant change in recent decades with the construction of

significant residential building stock as well as the provision of essential infrastructure, facilities and services including the provision of the National School on the adjoining land to the west of the site.

- 7.3.3. Further the land immediately bounding the eastern boundary of the larger site is zoned for future residential development under the current Development Plan. With the widening stretch of River Road providing a physical barrier from the significant development that has occurred in this area and the open space amenity provision of Tolka Valley Park.
- 7.3.4. Against this context, it is of relevance that Section 15.18.5 of the Development Plan requires that applications for the provision and siting of telecommunications antennae take account of the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, (Department of Environment and Local Government, 1996), as revised by DECLG Circular Letter PL 07/12.
- 7.3.5. Of particular, the advice contained in Section 4.3 of the said 1996 Guidelines indicates that only as a last resort and if the alternatives suggested in this document are either unavailable or unsuitable should a free-standing mast be located in a residential area of beside schools. It also goes on to state that: *“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. The support structure should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure”*.
- 7.3.6. Whilst I consider that the type of structure chosen is generally consistent with Section 4.3 of the said Guidelines and it has been demonstrated that the height of 18m of the monopole is the absolute minimum to achieve the coverage requirements they seek to achieve from its provision of its 3G and 4G objectives for its growing customer base in this area. I also accept that it is challenge in placing infrastructure of this nature in and areas that has become increasingly more sensitive to change through the expansion of residential development and associated amenities to the south of this stretch of River Road. Notwithstanding as said Section 4.3 of the 1996 Guidelines sets out that locating beside a school and in a residential area should only be as a last resort and where it may be deemed necessary that existing utility sites should be considered.

- 7.3.7. The applicant's documentation includes that out of the five locations examined (Note: Table 1 of the Planning Statement) that there are no suitable alternative sites for an area that would appear to have a radius of c1.5km with the subject site being located at the centre of the search area they examined.
- 7.3.8. The reasons as to why the alternative sites examined were not suitable varied from being too remote from the target area of coverage, through to natural and manmade features in between them and the target area that would block the signal. The reasons given are not supported by for example topographical evidence that for example would support the basis of natural and manmade features blocked through to why other masts in the geographical area were excluded.
- 7.3.9. Moreover, there is no documentation that would support that dialogue was had with other Third-Party operators with the view of achieving co-location nor were other alternative sites examined including locations that are deemed to be more suitable and higher in the hierarchy of suitability, i.e. not being last resort locations, not examined. With this including as said by the Appellant and Third Parties in this appeal case the elevated in topography ESB Substation in the search area. A site where there are existing tall man-made features including pylons where I concur would help assimilate the provision of a mast structure and a site that is more remote from sensitive receptors like schools and residences.
- 7.3.10. It is also a concern that Section 4.2 of the 1996 Guidelines set out that whilst the location of such structures is substantially influenced by radio engineering factors that in endeavouring to achieve a balance of some of the considerations that the visual impact is among the more important considerations which have to be considered in arriving at a decision on a particular application (Note: Section 4.3).
- 7.3.11. Section 4.2 also indicates that visual impact will, by definition, vary with the general context of the proposed development and it states that: "*whatever the general visual context, great care will have to be taken when dealing with fragile or sensitive landscapes*" with these including but not limited to designated areas of Conservation.
- 7.3.12. It is therefore a concern that the site is in proximity to the Tolka Valley Park, an important amenity space and red-hatched Conservation Area under the current Development Plan that this modest in area site is located within 17m of this sensitive

to change setting. With the site being an elevated one on the southern side of the banks of the River Tolka.

- 7.3.13. Given the widening nature of River Road and its restricted width the presence of an 18m monopole structure would be a significant man-made feature that would be not only highly visible within the public domain of the adjoining stretch of River Road, it would be a visually discordant feature, in the backdrop of the recent developments that have taken place in its immediate vicinity and in the backdrop of a Conservation Area where the River Road acts as a physical boundary between developed land and parkland.
- 7.3.14. Against this context, I am not satisfied that the applicant has demonstrated that the siting of the proposed development in proximity to a Conservation Area is consistent with Policy BHA9 of the Development Plan.
- 7.3.15. I note to the Board that this Development Plan policy seeks to provide specific protection for the special interest and character of this Conservation Area from inappropriate developments that have the potential to not positively contribute to its intrinsic character and distinctiveness. This policy also seeks to protect and enhance the character and appearance of the area and its setting, wherever possible.
- 7.3.16. The 1996 Guidelines also indicate that in city suburbs operators should endeavour to locate to industrial estates or in industrially zoned land. This is also as said advocated under Section 15.18.5 of the Development Plan. The possibilities offered by other locations outside of 5 existing masts locations is not a thorough examination of other potential sites where this type of development is channelled to.
- 7.3.17. An examination of ComReg maps shows that the targeted coverage areas for the proposed development have 'very good' and 'good' coverage, including there being 4G and 5G services. It is also an area where I accept the contention put forward by the appellant and Third Parties that alternative forms of high-speed data are already or will be soon provided via fibre roll out in this area (Note: fibre-to-the-home) through to that new residential developments that characterise the urbanscape of Pelletstown constructed with capacity for future linkage. Further, I accept the First Party's contention that the proposed development would improve the existing high-speed wireless data and broadband, 3G and 4G coverage in the Pelletstown area. Notwithstanding, I am not satisfied that the documentation provided with this

application and on appeal has robustly demonstrated by way of a reasonable evidence based sequential examination of alternative site locations before reaching the conclusion that this last resort location immediately adjoining a National School (Pelletstown Educate Together NS), within 17m of a Conservation Area and within 65m of the nearest dwelling in the larger residential scheme of Rathborne Vale is the most suitable and appropriate location for this development to achieve the applicants targeted 3G and 4G coverage needs.

- 7.3.18. Conclusion: Having regards to the above I am not satisfied on the basis of the information provided that the applicant's selection of this last resort site, i.e. a location in proximity to a school and residents, is acceptable and that in this circumstance it accords with local through to national planning policy provisions and guidance. I am also not satisfied that it would not give rise to undue amenity impacts and that it would accord with the proper planning and sustainable development/

7.4. Visual Amenity Impact

- 7.4.1. The proposed development as a new man-made built insertion into its site is not a structure that could be considered as subservient in its height when compared with the existing structures on this Eir telephone exchange site. For example, in comparison the nearest single storey structure to it within the compound were it to be permitted is 14m lower than the 18m height of the monopole structure proposed. With the base of this structure indicated in the submitted drawings as being c3m back from the roadside boundary at its nearest point and with its location being a highly prominent one located to the immediate west of the entrance serving the Eir Exchange compound.
- 7.4.2. Additionally, its provision at this location would appear to require the loss of natural features including three trees on the Eir telephone exchange site.
- 7.4.3. The proposed development occupies a highly constrained site of 43.56m² area and as such within the redline area there is no possibility to provide natural features to lessen the visual impact of the base of the monopole structure and its associated equipment and cabinets. Further, no additional compensatory planting is proposed outside of the red line area including compensatory planting for the trees lost.
- 7.4.4. The submitted drawings indicate that the proposed monopole structure would be 14m higher than this building and 12m higher than the limited natural features in its

immediate vicinity. Contextual drawings showing the relationship between the proposed development and the Pelletstown Educate Together National School are not provided nor are there contextual drawings showing the proposed development against the backdrop of Rathborne Vale residential scheme to the south of it.

- 7.4.5. The accompanying Telecommunications Development Photomontage Report accompanying this application in my view does not provide a very useful assessment of the actual impact the proposed development would have on its surrounding context. Particularly in terms of depicting visual impact on the neighbouring Pelletstown ETNS, the neighbouring residential development through to the Tolka Valley Park. The views chosen in this report, VP1 to VP4 in my view are all deliberately remote through to appear to be locations selected as there is significant intervening development in between.
- 7.4.6. I note that these concerns were shared by the Planning Authority who sought further information on this matter and a revised Telecommunications Development Photomontage Report was submitted by the applicant on the 29th day of January, 2024.
- 7.4.7. While I consider that this provides a more detailed visual assessment of the site setting and potential impact of the proposed development through it to provides nine additional viewpoints located in closer proximity to the site. Notwithstanding, of concern the photomontages upon which this assessment is based on were taken in poor light and hazy conditions. Additionally, View Point 5 and 6 appear to be chosen to take advantage of man-made and natural feature obstructions. Further, View Point 6 and 7 does not omit the loss of the trees that are required to facilitate the proposed development.
- 7.4.8. Overall, it is my considered opinion that the viewpoints chosen seek to take advantage of locations where the mast's visibility would not be as visually overt on the basis of natural and manmade features in between. With View Point 9 being the only viewpoint where the photo is one that was taken on a clear day during better daylight conditions and more localised contexts for viewpoints are not selected.
- 7.4.9. I am not satisfied that either report allays the concerns that the proposed development which includes an 18m monopole structure with additional structures thereon and

additional structures at grade, would not give rise to any adverse visual impact including diminishment of the character of its sensitive to change setting.

- 7.4.10. This is on the basis that it is located with minimal setback from River Road from which it would be highly visible as incongruous industrial in appearance new addition when considered against the more modest structures within this Eir Exchange compound. With as said no mitigation of its visual impact provided in the form of compensatory planting for example to buffer its visual apartness when viewed from this road.
- 7.4.11. Moreover, its height would be out of character and would fail to harmonise with as well as not be visually dominant against the neighbouring buildings within the Pelletstown Educate Together National School site to its west and south. With buildings containing a modest 3-storey element being otherwise predominantly single and two storeys in their height together with a sensory garden through to active play areas located between it and the proposed development. In this regard, it would appear that the boundary of this school is just over 10m and with the main school building located over 40m from the proposed site.
- 7.4.12. I am cognisant that the 1996 Guidelines do not detail a minimum separation distance to be maintained to school properties. Further, Planning Circular PL07/12 recommends that Development Plans should avoid including any policies that have minimum separation distances between telecommunication installations, schools, and residential dwellings.
- 7.4.13. I am of the view that in this instance the location of the 18-meter monopole structure would be overtly dominant and visually incongruous in its context. Though I note that the lower part of the monopole structure's base and its associated equipment as well as cabinets at ground level would block some of the view. Notwithstanding, as said there is no visual screening or buffering proposed to mitigate these at grade structures or to soften the lower levels of the monopole structure further there are other types of mast structures that could be less visually apparent in this setting. Including a setting that backdrops onto Tolka Valley which alongside the site has a strong sylvan character.
- 7.4.14. Additionally, the neighbouring residential scheme consists of two storey terraces to the immediate south and south east of the site which would in the case of its

northernmost residential units have direct and oblique views towards the proposed mast structure with the nearest dwelling being within 65m of the school.

- 7.4.15. I consider that these properties would be similarly adversely impacted by the proposed development though they would benefit from greater separation distance when compared to the National School which has no visual buffer and limited separation to this proposed development.
- 7.4.16. There are also concerns in terms of the undeveloped residentially zoned land that adjoins the eastern boundary of the site and whether permitting the proposed development would curtail the latent potential of this land's future development.
- 7.4.17. In relation to the Tolka Valley Park as discussed, I am of the view that the monopole structure would be incongruous in its industrial appearance, and it would be an inappropriate feature that would project above the treeline and rooflines where visually apparent from this conservation area and amenity provision.
- 7.4.18. Conclusion: I am not satisfied on the basis of the information provided that there are no alternative more suitable sites available that would satisfy the demand for the telecommunications services in this area that the applicant seeks to provide and that proposed development at this location would not result in a material and adverse visual amenity impact on its setting. This consideration further supports in my view a refusal of permission for the proposed development.

7.5. Residential Amenity Impact

- 7.5.1. The site lies on the southern side of River Road which as said has undergone significant change since the telephone exchange facility was granted permission at this location. The surrounding area is now characterised by the predominance of medium to high density residential development who are in part served by the Pelletstown Educate Together National School which bounds and neighbours this utility facility. I consider that the residential properties in the vicinity of the site are sensitive receptors to the proposed development which at their nearest point would be c65m to the south of the subject site.
- 7.5.2. The proposed development in my view would be visually overbearing and incongruous as viewed from the neighbouring properties to the south, particularly the nearby Rathborne Vale and River Drive properties. With no visual mitigation included to

lessen the visual apparentness of the proposed development as viewed from these properties and their surrounding public domain.

- 7.5.3. It is also likely that the proposed development would be visually out of character when viewed from the communal open space of Rathborne Vale Park due to its higher ground levels and that it would be discordant feature in close proximity to any future residential development on the adjoining 'Z1' zoned land bounding the subject telephone exchange site on its eastern side.
- 7.5.4. As previously discussed, the land use zoning objective for such zoned lands is to protect, provide and improve residential amenities. As well as Section 14.6 of the Development Plan sets out that: *"it is important to avoid abrupt transitions in scale and land-use between zones"* and *"it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. For instance, in zones abutting residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals, and to landscaping and screening proposals, in order to protect the amenities of residential properties"*.
- 7.5.5. In this case I am not satisfied that the proposed development would be consistent with these provisions and would, if permitted, seriously injure the residential amenity of properties in its vicinity for the reasons set out. I am not convinced that the provision of screening, improvements to the monopole design for example the green colour suggested through to a changed type of mast structure would overcome these concerns.
- 7.5.6. Conclusion: I am not satisfied that the proposed development would not seriously injure the residential amenity of properties in its setting.

7.6. Public Health

- 7.6.1. The Appellant, the Third-Party Observers as well as I note the substantial number of Third-Party Observations received by the Planning Authority during their determination of this application raise concerns that the proposed development, if permitted, will negatively impact on human health by virtue of its location near homes and a school.
- 7.6.2. The 'Telecommunications Antennae and Support Structures Guidelines for Planning Authorities' (1996) is the current guidance in relation to the emissions from

telecommunications infrastructure in Ireland. It recognises that there is concern amongst the public in relation to the potential health impacts of these structures but makes the point that International Commission on Non-Ionising Radiation Protection reported that radiation from telecommunication infrastructure is substantially below the guideline set by the International Radiation Protection Association. I acknowledge that considerable time has passed since these guidelines were published and there has been significant evolution in terms of the technology associated with the provision of mobile and broadband coverage with this in turn giving rise to additional health and safety concerns in relation to this type of development.

- 7.6.3. Additionally, I note that telecoms operators must satisfy ComReg, the statutory authority in these matters, that their equipment and processes meet the approved international standard to protect public health. Compliance with emission limits in respect of regulation is regulated nationally by ComReg and that regular measurements of emission levels are required to comply with International Radiation Protection Association.
- 7.6.4. 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.
- 7.6.5. I accept that the siting of the proposed development at this last resort location beside a school and in close proximity to residences, with this giving rise to local health issue concerns are legitimate concerns, they are not a matter for An Bord Pleanála in determining and deliberating on the application proposed but rather a matter for ComReg.

7.7. Other Matters Arising

- 7.7.1. **Procedural:** There are procedural issues raised by the appellant in their appeal submission which raise questions on the Planning Authority's handling of this planning application. I first of all note that the Board does not have an ombudsman role and that this Third-Party appeal before the Board is considered "*de novo*". That is to say that the Board considers the proposal having regard to the same planning matters to which a Planning Authority is required to have regard when deciding on a planning

application. Secondly the matter of Site Notice validation, this is a matter for the planning authority and outside the remit of this appeal case.

7.7.2. Depreciation of Property Values

The Third-Party Observers in this case and many of the Third-Party Observers submissions received by the Planning Authority during their course of its determination of this application raised concerns that the proposed development, if permitted, would adversely impact the property values of their homes. There is no expert-based evidence that would support that a devaluation of property would arise, if permission, was granted and as such I cannot make an informed consideration of this concern.

7.7.3. Access

The larger exchange site has an existing access onto the River Road which has limited sightlines in both directions and though the posted speed limit is 50kmph I observed not only heavy volumes of traffic but traffic journeying at speeds above this making access from this entrance very dangerous. Should the Board be minded to grant permission it may deem it prudent to include as safeguards as part of the construction management plan condition that provides for safe traffic management measures during this phase of development. Despite these concerns when operational I am of the view that the proposed development would not give rise to any significant additional volumes of traffic over and above the existing use of the larger exchange site. I also note to the Board that the adjoining stretch of River Road does not contain safe pedestrian pathways on either side. I did however observe cyclists using this road and pedestrian movement where there is access in the wider area to the Tolka Valley Park.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements of S177U of the Planning & Development Act, 2000, as amended.
- 8.2. The subject site is not located within or adjacent to any European Site designated as an SAC or SPA. The closest European Site, that forms part of the Natural 2000 Network, is the South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024), located c6.5km to the east at its nearest point.

- 8.3. The proposed development is located within changing urbanscape that is characterised by residential development to the south of River Road whereas to the north of River Road the lands form part of the Tolka Valley Park.
- 8.4. The proposed development comprises of the provision of a telecommunications support structure and its associated structures on part of the Open Eir Exchange site on River Road, Pelletstown, Dublin 15.
- 8.5. No nature conservation concerns were raised as part of the planning appeal or by the Planning Authority in their determination of this application.
- 8.6. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site.
- 8.7. The reason for this conclusion is based on the following factors:
- The nature, scale and location of the development on a brownfield site.
 - The location of the development in a serviced urban area.
 - The distance from the European Site and the nature of the intervening landscape.
 - Absence of meaningful pathway to any European Site.
 - The limited zone of influence of potential impacts of the proposed development and the potential impacts being restricted to the immediate vicinity.
 - Standard pollution controls that would be employed regardless of proximity to a Natura Site and effectiveness of same. Additionally, the surface water measures proposed are not needed to avoid, prevent, or reduce significant effects on European Sites within Dublin Bay and that no mitigation has been put forward in this regard.
- 8.8. **Conclusion:** I conclude that on the basis of objective information, the proposed development would not have a likely significant effect on any European Site or Sites either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (Stage 2) (under Section 177V of the Planning and Development Act 2000) is not required in this case.

9.0 Recommendation

9.1. I recommend that permission is **refused**.

10.0 Reasons and Considerations

1. Having regard to:

- a) the pattern of development in the vicinity of the site,
- b) the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996, as updated by Circular Letter PL/07/12 issued by the Department of the Environment, Community and Local Government on the 19th day of October, 2012,
- c) the policy provisions of the Planning authority, as set out in the Dublin City Development Plan, 2022-2028, and
- d) the location, height, design, nature and scale of the proposed telecommunications support structure,

it is considered that the documentation provided has failed to demonstrate by way of a thorough and robust examination of a variety of alternative less sensitive to change sites in the surrounding area where the high-speed wireless data and broadband services coverage for the area which requires improvement could be achieved prior to the choice of what is identified under Section 4.3 of the 'Antennae and Support Structures, Guidelines for Planning Authorities', dated 1996, as a last resort location. The Board is not satisfied that despite the existing utility use of the site that there are no other alternative more suitable locations that are more remote from sensitive receptors such as schools and residences. On this basis it is considered that the proposed development would be contrary to Section 4.3 of the said Guidelines.

It is also considered that the choice of location of the proposed development would also be contrary to the policy provisions set out in the Dublin City Development Plan, 2022-2028, for 'Z15' zoned lands, Section 15.18.5 of the Development Plan which provides guidance for this type of development and

preferred locations through to lands with a transitional zonal character which in this case includes residential zoned land and a Conservation Area. In such circumstances the Development Plan under Section 14.6 seeks the avoidance of abrupt transitions in scale, land-uses between zones and seeks the avoidance of developments that would be detrimental to the amenities of the area, including it would be seriously injurious to the residential amenities of properties in its vicinity.

Furthermore, Policy BHA9 of the Dublin City Development Plan, 2022-2028, provides specific protection for the special interest and character of this Conservation Area from inappropriate developments that have the potential to not positively contribute to its intrinsic character and distinctiveness. Given the defining character of this adjoining Conservation Area, the proposed developments proximity to it and visibility from it, it is considered that the proposed development would be a visually intrusive insertion into this sensitive to change visual setting in a manner that would be contrary to this said Development Plan policy.

On this basis, the proposed development would 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.

Patricia M. Young
Planning Inspector

21st August, 2024.

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319300-24		
Proposed Development Summary	Permission is sought for an 18m telecommunications support structure, all associated equipment, with ground-based equipment and all ancillary site development works.		
Development Address	Open Eir Exchange, River Road, Pelletstown, Dublin 15		
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: _____ **Date:** _____