



An  
Bord  
Pleanála

## Inspector's Report ABP-319380-24

### Development

Telestructure

### Location

Clonskeagh Road, Donnybrook,  
Dublin 4

### Planning Authority

Dublin City Council

### Planning Authority Reg. Ref.

TIL050-23

### Applicant(s)

Emerald Tower Limited

### Type of Application

S254 Telestructure Licence

### Planning Authority Decision

Refuse to Grant Licence

### Type of Appeal

First Party

### Appellant(s)

Emerald Tower Limited

### Observer(s)

None

### Date of Site Inspection

3<sup>rd</sup> May 2024

### Inspector

Frank O'Donnell

## **1.0 Site Location and Description**

- 1.1. The subject appeal site is located along the public footpath at the junction of Sandford Road, Clonskeagh Road and Eglington Road, c. 545 metres southwest of the centre of Donnybrook.
- 1.2. The site measures between 4.86 metres and 4.46 metres in length and 1.85 metres in width and has an approximate maximum site area of 9 sqm. The site is positioned immediately adjacent to the northeast of a signalised junction which includes a pedestrian crossing. There are 2 no. existing telecom cabinets (c. 1.5 metres in height) located on the public footpath, c. 5 metres to the south adjacent to the garden wall of no. 86 Eglington Road. There is also a separate telecoms cabinet (also c. 1.5 metres in height) located on the road-side edge of the footpath further c. 7 metres to the northeast of the site. At the time of my site inspection, there was no telephone kiosk in place in the vicinity of the site. An adjacent traffic light to the immediate southwest of the site is shown to measure 2.4 metres in height.
- 1.3. The subject appeal site forms part of the public road/ footpath and is not ascribed any specific land use zoning. The predominant land use zoning in the area is Z2 Residential Neighbourhoods (Conservation Areas).
- 1.4. The general area is residential in character and includes a mix of three and two storey detached and semi-detached red brick dwellings, within mature sites, particularly along Eglington Road to the east and the northeastern side of Clonskeagh Road to southeast. There are several Protected Structures located within relatively close proximity to the site, to the west, southwest and south along the southwest side of Clonskeagh Road, see House no's 1 to 12, St. James Terrace (RPS. Ref. No's 1909 to 1920 inclusive).
- 1.5. The rear of the site is defined by the existing capped boundary wall and mature native hedging which serves no. 86 Eglington Road. There is also a high mature native tree within the side (west) garden curtilage of this said dwelling.

## 2.0 Proposed Development

2.1. A licence under Section 254 (1) of the Planning and Development Act, 2000 to 2023, was sought for the following:

- To erect an 18-metre-high dual operator pole (406 mm diameter) and associated equipment (including 2 no. 300 mm diameter link dishes and 2 no. GPS beacons), together with 2 no. ground-based equipment cabinets (each measuring 1.9 metres in height, 1.3 metres in length and 0.8 metres in width) and all associated site development works. The mast is proposed to be positioned between the 2 no. cabinets at a distance of c. 400 mm from the wall to the rear and at a similar maximum distance from the adjacent cabinets.
- The purpose of the proposed development is stated to be for wireless data and broadband services.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On 31<sup>st</sup> January 2024, the Planning Authority issued a notification of their intention to REFUSE the Section 256 Licence for the following reason:

1. *The proposed telecommunication 18-metre-high pole and 2 no. cabinets which is situated at the junction of Sandford Road, Clonskeagh Road and Eglington Road, adjacent to a Z2 Residential Conservation Zoning and in close proximity to 3 no. existing cabinets would result in excessive visual clutter and have a negative visual impact at this prominent junction. The proposed development would result in excessive visual clutter and have a negative visual impact at this prominent junction. The proposed development would seriously injure the visual amenities of the area and would be contrary to Policy BHA9 of the Dublin City Development Plan in relation to Conservation Areas, which states that new development should enhance the character and setting of the area and its setting, wherever possible and Section 15.17.4 Outdoor Seating and Street Furniture which states that development should be so located to prevent clutter of all*

*footpaths. The proposed development would be contrary to the proper planning and sustainable development of the area.*

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

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

- The **Planning and Development Department**, assessment and recommendation are as follows:

##### *Assessment*

- *This is an application for a license to place a pole and 2 no. ancillary cabinets on the public footpath at the junction with Sandford Road, Clonskeagh road and Eglington Road. The proposed pole is 18 metres in height and has a diameter of 400mm, while the cabinets to be placed wither side of the pole are 1.3 metres long, 1.9 metres high and 0.8 metres in depth. The total width of the footpath at the proposed location of the pole and cabinets is 2.5 metres.*
- *The report submitted in conjunction with the application states that Eir's antennas will be encased within the pole, with a cabinet for Eir mobile with a second cabinet for a subsequent operator. The applicants have submitted a Map which sets out the existing coverage in the area, which shows a lack of good coverage in the vicinity of the subject site. The submitted report also states that the location was chosen because of the optimum location in the search area and that the 5 no. alternative sites were considered, which were deemed unsuitable. The submitted report further states the site was chosen to make the best use of existing tree screening and existing streetlights along the road.*
- *It is noted that there are 2 no. existing cabinets situated approximately 7 metres to the south and a further cabinet located approximately 10 metres to the north of the proposed development. In addition there is a telephone kiosk situated to the north and a*

*traffic light and traffic sign directly adjacent to the proposed development. Lamp standards are also noted in the vicinity.*

- *In terms of zoning, the site is located on the public footpath, which has an unclassified designation with the Dublin City Development Plan, 2022 to 2028, but directly adjoining the site is zoned Z2 which as the land use objective 'To protect and/ or improve the amenities of residential conservation areas.'*
- *While the support for the provision of broadband and its related infrastructure is noted, this assessment must also have regard to Section 15.17.4 of the Development Plan which states that 'Certain uses within the public realm, including elements of street furniture, can lead to problems of visual clutter.'*
- *The applicant has submitted a Visual Impact Assessment of the 18 metre pole which indicates that the proposed development would not have a significant impact on the receiving environment. It is noted that image taken from Sandford Road VP3 is taken from the entrance to Milltown Park and does not provide a clear view of the junction or the position of the proposed development. While the pole and cabinets are of standard telecommunications infrastructure scale, there are concerns regarding their position at this prominent junction in terms of visual amenity. Furthermore, it is considered that the proposed development in combination with the adjacent existing 3 no. cabinets along the footpath would add to visual clutter along the street.*
- *In this instance the Planning Authority would not support the proposed pole or cabinets at this location, adjacent to a residential conservation area. The proposal would be contrary to Section 15.17.4 Outdoor Seating and Street Furniture, Policy BHA9 and Policy SI48 would result in visual clutter which would seriously injure the visual amenities of the area. The proposed development would be contrary to the proper planning and sustainable development of the area.*

### *Recommendation*

- *The Planning Authority would not support the provision of the pole and 2 no. cabinets, at this location, for the following reason:*
  1. *The proposed telecommunication 18 metre high pole and 2 no. cabinets which is situated at the junction of Sandford Road, Clonskeagh Road and Eglington Road, adjacent to a Z2 Residential Conservation Zoning and in close proximity to 3 no. existing cabinets would result in excessive visual clutter and have a negative visual impact at this prominent junction. The proposed development would seriously injure the visual amenities of the area and would be contrary to Policy BHA9 of the Dublin City Development Plan in relation to Conservation Areas, which states that new development should enhance the character and appearance of the area and its setting, wherever possible and Section 15.17.4 Outdoor Seating and Street furniture which states that development should also be located to prevent clutter of all footpaths. The proposed development would be contrary to the proper planning and sustainable development of the area.*

### 3.2.2. Other Technical Reports

- The **Transportation Planning Division Report**, assessment and recommendation is as follows:

#### *Assessment:*

- *The subject site is located on the junction of Clonskeagh road, Donnybrook and Eglington Road. The site location is on a public footpath at the corner. The site is adjacent to a signalised pedestrian crossing. The total width of the footpath at this location varies from 3.21 metres to 3.5 metres.*
- *The photos and drawings provided show the cabinet located on the public footpath. The drawings show the position of the cabinet will impact on the footpath however when the cabinets are open the*

*tightest point of the footpath will be approximately 1.69 metres. Within the footpath there are 1 no. traffic signal, tactile paving and underground infrastructure including MV/LV Underground Cable Route.*

- *A telecommunications pole and cabinet at this location would cause obstruction to pedestrians and would impede their desire lines at this bend in the road.*
- *On this basis, this division recommends the cabinets and pole be refused at this location.*

*Recommendation:*

- *Having examined the various reports and recommendations on this application and given that both the Transportation Planning and Planning and Development Divisions object to the proposal, I recommend the refusal of the two telecommunications cabinets measuring externally (1.3mL x 0.8mD x 1.9mH) x 2, and one 18 m pole on the public footpath on Clonskeagh Road, Donnybrook, Dublin 4.*

### **3.3. Prescribed Bodies**

- None.

### **3.4. Third Party Observations**

- None

## **4.0 Planning History**

### **4.1.1. On the subject site**

- None.

### **4.1.2. Adjacent site c. 8 metres to the northeast on the public footpath**

- **4400/19:** Eircom Limited. Permission for replacement of the existing telephone kiosks with a new Telephone Kiosk with integral communication

unit and a 1. 53sq.metre digital advertising display. Permission was REFUSED on 10<sup>th</sup> January 2020 for the following reason:

1. *The proposed development to upgrade an existing telephone kiosk and to provide an integrated advertising panel to the rear would not be compatible with the policies and objectives of the Dublin City Development Plan 2016-2022, and in particular with the Z2 zoning for the site as it would result in a negative visual impact on the architectural character of the area which in turn would be seriously injurious to the amenities of the Residential Conservation Area.*

4.1.3. Adjacent site to the immediate north/ east/ west:

- **ABP-311302-21:** Strategic Housing Development (SHD): Demolition of existing structures on site, 671 no. Built to Rent apartments, creche and associated site works. Permission was GRANTED on 23<sup>rd</sup> December 2021 subject to 34 no. conditions.
- **LH29S.317921-23:** LRD - Construction of 636 apartments and associated site works. Permission was GRANTED on 19<sup>th</sup> December 2023.

## 5.0 Policy Context

### 5.1. National Planning Framework – Project Ireland 2040

- 5.1.1. Objective 24 - *'Support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who live and work in rural areas.'*

### 5.2. Development Plan

#### **Dublin City Development Plan, 2022 to 2028**

- 5.2.1. The subject site is not zoned.
- 5.2.2. Section 9.5.11 of the Plan relates to Digital Connectivity Infrastructure.
- 5.2.3. Policy SI45 relates to 'Support for Digital Connectivity' and states:
  - *SI45: Support for Digital Connectivity:*



*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 (for further guidance see Section 15.18.5).*

- *SI48: Sharing and Co-Location of Digital Connectivity Infrastructure:*

*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.*

5.2.4. Chapter 11 relates to Built Heritage and Archaeology and includes the following relevant Sections, Policies and Objectives.

- Section 11.5 relates to Built Heritage and Archaeological Policies and Objectives:

Policies:

- BHA1: Record of Protected Structures
- BHA2: Development of Protected Structures, BHA3: Loss of Protected Structures, BHA4: Ministerial Recommendations, BHA5: Demolition of Regionally Rated Building on NIAH, BHA6: Buildings on Historic Maps, BHA7: Architectural Conservation Areas, BHA8: Demolition in an Architectural Conservation Area.
- BHA9: Conservation Areas,

*Conservation Areas*

*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.*

*Enhancement opportunities may include:*

- 1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.*
- 2. Re-instatement of missing architectural detail or important features.*
- 3. Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.*
- 4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.*
- 5. The repair and retention of shop and pub fronts of architectural interest.*
- 6. Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.*
- 7. The return of buildings to residential use.*

*Changes of use will be acceptable where in compliance with the zoning objectives and where they make a positive contribution to the character, function and appearance of the Conservation Area and its setting. The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications, and will promote compatible uses which ensure future long-term viability.*

- BHA10: Demolition in a Conservation Area, BHA18: Historic Ground Surfaces, Street Furniture and Public Realm, BHA19: Historic Street Furniture and the RPS.

5.2.5. Section 14.3.2 of the Plan relates to Unzoned Lands and states:

- *'14.3.2 Unzoned Lands*

*Certain small areas of land within the city are unzoned or not covered by a specific zoning objective. These lands are illustrated in white on the zoning maps accompanying the plan and usually correspond with the location of the*

*city's roads, bridges, train lines, or other key infrastructure installations.*

*Development proposals in respect of these unzoned lands will be considered in accordance with the policies and objectives of the plan. Regard will also be had to their compatibility with adjacent land-uses and zonings.'*

5.2.6. The immediately adjacent lands to the east and the predominant land use zoning in the area is Zone Z2 Residential Neighbourhoods (Conservation Areas).

5.2.7. Chapter 14 of the Plan relates to Land Use Zoning. Section 14.3 of the Plan relates to Permissible, Non-Permissible Uses and Unzoned Lands.

5.2.8. Section 14.7.2 relates to Residential Neighbourhoods (Conservation Areas) – Zone Z2, the relevant land use zoning for which is '*to protect and/or improve the amenities of residential conservation areas.*' The following guidance is provided:

- *Residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. A Zone Z2 area may also be open space located within or surrounded by an Architectural Conservation Area and/or a group of protected structures. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area. Chapters 11: Built Heritage and Archaeology, and Chapter 15: Development Standards, detail the policies and objectives for residential conservation areas and standards, respectively. Volume 4 of this plan contains the Record of Protected Structures.*
- *The principal land-use encouraged in residential conservation areas is housing but can include a limited range of other uses. In considering other uses, the guiding principle is to enhance the architectural quality of the streetscape and the area, and to protect the residential character of the area.*

5.2.9. Permissible uses on Z2 zoned lands include public service installation.<sup>1</sup>

5.2.10. Section 15.17.4 of the Plan relates to Outdoor Seating and Street Furniture and reads as follows:

- *Certain uses in the public realm, including elements of street furniture, can lead to problems of visual clutter and to obstruction of public footpaths for pedestrians, in particular people with disabilities. These elements include newspaper stands, telephone kiosks, traffic and bus signs etc. It is an objective of Dublin City Council to control the location and quality of these structures in the interests of creating a high-quality public domain.*
- *All street furniture provided by private operators including retailers, publicans and restaurateurs, etc., and utility companies should be to the highest quality, preferably of good contemporary design avoiding poor historic imitation and respect the overall character of the area and quality of the public realm and be so located to prevent any obstruction or clutter of all footpaths and paved areas including landings.*
- *In this regard, street furniture requires either a licence under Section 254 of the Planning and Development Act, 2000 (as amended) or planning permission (including street furniture erected on private lands). In both instances, the applicant is required to submit details of the location, design, specification and quality of the proposed elements of street furniture. Details of maintenance and cleansing schedules, together with a certificate of structural stability, may also be required. Street furniture should be designed to be accessible to disabled persons where possible.*
- *In considering applications for outdoor furniture, the planning authority shall have regard to the following:*

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<sup>1</sup> *Public Service Installation*

*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. It also includes bring centres, green waste composting centres, public libraries, public lavatories, public telephone boxes, bus shelters, water fountains, moorings, jetties etc. It does not include incinerators/waste to energy plants. The offices of such undertakers and companies involved in service installations are not included in this definition. (Dublin City Development Plan, 2022 to 2028, Volume 2: Appendices, Annex 15: Land Use Definitions, Section 1.0 – Land Use Definitions).*

- *Size and location of the facility.*
- *Concentration of existing street furniture in the area.*
- *The visual impact of the structure, particularly in relation to the colour, nature and extent of advertising on all ancillary screens.*
- *Impact on the character of the streetscape.*
- *The effects on the amenities of adjoining premises, particularly in relation to hours of operation, noise and general disturbance.*
- *Impact on access and visibility.*

5.2.11. Section 15.18.5 of the Plan relates to Telecommunications and Digital Connectivity and reads as follows:

- *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.*
- *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.*
- *Telecommunications antennae and supporting structures should preferably be located on industrial estates or on lands zoned for industrial/employment uses. 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.*
- *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, historic park, or in the vicinity of*

*protected buildings, special views or prospects, monuments or sites of archaeological importance. The location of antennae or support structures within any of these areas or in proximity to protected structures, archaeological sites and other monuments should be avoided.*

- *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.*

### **5.3. Guidelines/ Circulars**

#### **5.3.1. DoHELG Circular Letter PL 11/2020**

This circular relates to planning exemptions applicable to telecommunications works undertaken by statutory undertakers authorised to provide telecommunications services.

The Circular advises that:

- Section 254 of the Act outlines the provisions in relation to the licencing of appliances and cables etc on public roads. Where development of a type specified in Section 254(1) of the Act is proposed to be carried out on a public road, approval for the works is required from a Planning Authority by means of the obtaining of a Section 254 licence.
- A Section 254 Licence is required for overground electronic communications infrastructure and its associated works, and that such works are exempt from planning permission.
- The exemptions for telecommunications infrastructure along public roads do not apply:
  - (a) where the proposed development is in sensitive areas where there is a requirement for Appropriate Assessment.
  - (b) where the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users.

Section 254(5) of the Act outlines the criteria to which the Planning Authority shall have regard in assessing such proposals:

- 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.

**5.3.2. Guidance on the Potential Location of Overground Telecommunications Infrastructure on Public Roads, (Dept. of Communications, Energy and Natural Resources, 2015)**

This report provides advice to telecommunications operators as to how telecommunications infrastructure could be accommodated along all road types.

Table A - Stand-alone poles are the preferred option in urban areas.

**5.3.3. DoECLG Circular Letter PL07/2012**

This Circular was issued to Planning Authorities in 2012 and updated some of the sections of the above Guidelines including ceasing the practice of limiting the life of the permission by attaching a planning condition. It also reiterates the advice in the 1996 Guidelines that planning authorities should not determine planning applications on health grounds and states 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'.

It advises Planning Authorities to:

- Cease attaching time limiting conditions or issuing temporary durations to telecommunications masts, except in exceptional circumstances.
- Avoid including minimum separation distances between masts or schools and houses in Development Plans.
- Omit conditions on planning permissions requiring security in the form of a bond/cash deposit.

- Not include monitoring arrangements on health and safety or to determine planning applications on health grounds.
- Include waivers on future development contribution schemes for the provision of broadband infrastructure.

#### 5.3.4. **Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996**

The 'Guidelines for Planning Authorities on Telecommunications Antennae and Support Structures' (1996) set out government policy for the assessment of proposed new telecommunications structures ('the 1996 Guidelines'). The Guidelines state that the rapid expansion of mobile telephone services in Ireland has required the construction of base station towers in urban and rural areas across the country. This is an essential feature of all modern telecommunications networks. In many suburban situations, because of the low-rise nature of buildings and structures, a supporting mast or tower is needed.

Section 1.2 relates to National Policy Issues wherein it is stated that *'fragile landscapes have to be treated sensitively, scenic views preserved, archaeological/geological sites and monuments and buildings of historical and architectural interest protected and sacred areas respected.'*

Section 4.3 of the Guidelines refers to visual impact and considers that this is one of the more important considerations which have to be taken into account in arriving at a decision on a particular application. In most cases, the Applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters, etc. Visual impact will, by definition, vary with the general context of the proposed development.

The Guidelines state that the approach will vary depending on whether a proposed development is in:

- a rural/agricultural area;
- an upland/hilly, mountainous area;
- a smaller settlement/**village**;
- an industrial area/**industrially** zoned land; **or**



- a suburban area of a larger town or city.

The Guidelines states that *'Whatever the general visual context, great care will have to be taken when dealing with fragile or sensitive landscapes, with other areas designated or scheduled under planning and other legislation, for example, Special Amenity Areas, Special Protection Areas, the proposed Natural Heritage Areas and Special Areas of Conservation and National Parks. Proximity to listed buildings, archaeological sites and other monuments should be avoided.'*

The Guidelines state that some masts will remain quite noticeable despite best precautions. It is further stated that *'local factors which have to be taken into account in determining the extent to which an object is noticeable or intrusive intermediate objects (buildings or trees), topography, the scale of the object in the wider landscape, the multiplicity of other objects in the wider panorama, the position of the object with respect to the skyline, weather and lighting conditions, etc.'*

In the vicinity of larger towns and in City suburbs the Guidance recommends that operators should endeavour to locate in industrial estates or in industrially zoned land. The Guidance also recommends that some commercial and retail areas should be explored whether as rooftop locations or by way of locating 'disguised' masts. ESB substations are also identified as potentially suitable locations for antennae support structures. The use of tall buildings or other structures in urban and suburban areas are stated to be always preferable to the construction of an independent antennae support structure. Only as a last resort and if the suggested alternatives are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. If such locations 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.

#### 5.3.5. **Architectural Heritage Protection, Guidelines for Planning Authorities, 2011**

#### 5.3.6. **Design Manual for Urban Streets and Roads (DMURS)**

### 5.4. **Natural Heritage Designations**

#### 5.4.1. The site is not located within or adjacent to a Natura 2000 site.

## **5.5. EIA Screening**

- 5.5.1. Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure, the nature of the receiving environment and the existing pattern of development in the vicinity, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

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

- 6.1.1. The Grounds of Appeal can be summarised as follows:

#### **Technical Justification**

- Eir require a site in the area. Current sites do not provide adequate indoor service for high-speed mobile broadband in the area.

#### **Site Selection**

- First choice is co-location which has already taken place at the nearest 3 out of 5 telecoms structures. There are no suitable existing structures in the search area. A new structure is proposed as a last resort. The siting choice is based on analysis including a sequential approach. A new structure is required in this case owing to the nature of the surrounding environment and increasing network capacity issues.
- The site is an optimum location in the search area and the lowest height possible. The siting of the mast has been done very successfully here in this case without resulting in significant environmental impacts.
- The site is located on the footpath at the junction of Clonskeagh Road and Eglington Road. The surrounding context is mainly residential. The approximate location sits on the junction of two busy City roads, alongside other existing urban road infrastructure. There is a school located

approximately 200 metres to the southwest of the site, separated by Milltown Park.

- Along the road and on the footpath there is vertical infrastructure in place including signage, street lights, traffic lights and mature deciduous trees approximately 10 metres in height. The proposed development is positioned adjacent to the footpath, along the boundary wall to the east, which comprises a wall and hedgerow, which offers quiet high screening for the residential buildings from the road.
- At this side of the road Eir Vault and Fibre are available. The site location has been sensitively sited, as much as possible, in order to utilise existing natural screening to have the least impact on residential amenity locally, being placed on the widest part of the footpath in order to avoid disruption to pedestrian flows and does not directly face any residential dwelling.
- The site is owned by Dublin City Council.

### **Alternative Locations**

- An examination of alternative locations was submitted to the Local Authority at pre-planning stage following initial consultations. This indicated the extent of obstructions at the identified alternative sites which would serve to undermine the quality of services achievable. The subject site was therefore submitted for comment along with the alternative locations surveyed.
- The Local Authority accepted the proposed location in the wake of no viable alternative in the vicinity. The Planner noted the potential impact on pedestrian movement and stated that the location would be subject to realignment and pavement widening under the Active Travel Scheme for Clonskeagh to City Centre.
- The Applicants' justification for the selected location is based upon the limitations of the target area and the lack of alternative locations within the target area.

### **Visual Impact & Visual Clutter**

- The Local Authority consider the proposal would constitute a negative visual impact and visual clutter at the proposed location. The Applicant considers

this to be overstated and exaggerated. The Applicant states that the proposed development is barely discernible amongst the existing streetlights and other street infrastructure at this location.

- The Applicant states that the proposed development, whilst visible, is not a dominant feature nor could it be considered incongruous to the existing baseline character at this location.
- The proposed pole can be coloured any variety of different colours. Dark colour options help to assimilate the pole into the background, blending in with the existing foliage and natural shadows created by intervening buildings. This can be conditioned in the event of a Grant of permission being issued.

### **Street Furniture & Development Within Conservation Area**

- The site is located in a historical suburb of Dublin City and as a consequence is home to a number of Protected Structures and Conservation Areas. The Applicant has made efforts to minimise impact on sensitive receptors whilst ensuring the best quality of services can be achieved. The Applicant considers that this has been achieved without causing undue harm.
- It is asked that the Board in this case take a balanced view and objectively review the intricacies and difficulties of this location and, in doing so, take account of overarching national objectives to support the delivery of wireless broadband.
- The BHA9 Objective refers to development in Conservation Areas being considerate of the historical and visual amenity of the area and shall seek not to harm or undermine the existing character of same. The purpose of this objective is to enable development whilst safeguarding the unique character of the city.
- The last line of Objective BHA9 states '*.... and will promote compatible uses which ensure future long-term viability.*' The Applicant considers that the proposed development is compliant with the essence and purpose of Objective BHA9, being suitably placed on a public road, avoiding directly facing onto residential or protected structures, utilising existing screening as far as can be achieved, all in order to improve ongoing and well documented

wireless broadband shortfalls in an area of the city which comprises a myriad of conservation areas and protected structures.

- It is asked that the Board takes into consideration the overall context of this location, recognises the subject location in this case is the optimum, and only, solution available to address the ongoing services issues. Permission should be granted in the interests of supporting long term viability and high-quality residential standards.
- Reason for refusal also refers to Section 15.17.4 (Outdoor Seating and Street Furniture) of the Plan. The Applicant considers that they have given due consideration to the conditions set out in the said Section and is satisfied that this location is suitable to accommodate the proposed development. The site comprises a boundary wall set back from the road junction and maintains a clearance of 2.25 metres from the cabinetry & poles to the roadway, this satisfies DMURS.
- The Applicant states the cabinet doors will remain closed and will only be opened once annually for servicing. In this regard the lived experience of the proposal in situ here is in accordance with the DMURS standards and allows for safe movement of pedestrians flows here.
- The Active Travel Scheme for Clonskeagh to City Centre shows this footpath junction is to be widened taken in the part of the existing pedestrian island for left turns from Eglinton Road onto Clonskeagh Road. Thus, the proposed location at its current layout provides over 2m of footpath clearance for pedestrians' movements, well above the minimum requirements, and furthermore is subject to imminent plans to widen the footpath at this junction under the Clonskeagh to City Centre Active Travel Scheme.

### **Heritage, Ecology and Landscape**

- The Applicant submits that as shown on Map, Figure 17, the proposal is suitably distant from any landscape and ecological sensitive designated areas and will not be impacted by the proposal.
- The Applicant notes there are Protected Structures in the area, described as 'House' in the Development Plan with no further detail. These buildings are

over 50m from the proposed development and are mostly invisible from the street by boundary walls and vegetation. The proposal is not anticipated to have any notable impact on these buildings.

## **Health**

- The Applicant has attached an International Commission for Non-Ionising Radiation Protection (ICNIRP) Declaration as evidence of compliance with emission limits as regulated by ComReg.

## **Visual Assessment**

- The Applicant considered that the 4 no. photomontages clearly demonstrate, no significant visual effects are predicted and that there would be no significant visual impact on nearby sensitive receptors, such as neighbouring properties, cultural heritage assets, Protected Structures, local roads and public rights of way/ walking route or parks.
- The Applicant requests that the Board disregard the reason for refusal, based on the submitted viewpoint analysis, which it is stated has objectively assessed the 4 no. photomontages in accordance with the Landscape institute GLVIA3 and find the visual impact to be Negligible in 1 no. case, Moderate/Low in another and Low in the remaining 2 no. photomontages. This is not considered by the Applicant to be significant.

### **6.2. Planning Authority Response**

- None

### **6.3. Observations**

- None

### **6.4. Further Responses**

- None

## 7.0 Assessment

### 7.1. Introduction

7.1.1. 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.

7.1.2. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/ regional and national policies and guidance, I consider the main issues in this appeal are as follows:

- Principle of Development/ Zoning
- Co-Location/ Alternative Sites
- Visual Clutter/ Visual Impact
- Built Heritage/ Residential Conservation Area

### 7.2. Principle of Development/ Zoning

7.2.1. The subject site is not ascribed any specific land use zoning. Guidance in relation to development proposals on such unzoned lands is set out in Section 14.3.2 of the Development Plan wherein, it is stated that *‘development proposals in respect of these unzoned lands will be considered in accordance with the policies and objectives of the plan. Regard will also be had to their compatibility with adjacent land-uses and zonings.’*

7.2.2. I am satisfied that the principle of the proposed development on the subject unzoned lands is acceptable subject to assessment against the policies and objectives of the plan, the guidance set out in the Plan, recommendations contained in the

Telecommunications Guidelines, 1996 and to normal planning and environmental considerations. These matters are discussed in further detail below.

### **7.3. Co-Location/ Alternative Sites**

- 7.3.1. Section 5.0 of the Applicants Planning Statement sets out the Site Selection Process and Discounted Options for the proposed development. This includes an appraisal of the 5 no. nearest telecommunications structures, as shown in table 1. Of the said 5 no. structures, all are outside the Operators stated search ring and the Operator already has equipment on 2 of the 5 no. facilities. The Applicant states there are no suitable existing structures in the search area to locate the Operators equipment. The Applicant states that the siting of the proposed development was decided upon after firstly analysing the requirements to provide new and improved broadband coverage and that a sequential approach to site selection was then undertaken in accordance with the Development Plan and the Telecommunications Guidelines, 1996.
- 7.3.2. I am satisfied that the Applicant has demonstrated sufficient justification for the choice of the subject site from a technical perspective. I am further satisfied that the Applicant has suitably addressed the issue of potential co-location of equipment on other existing telecommunications structures in the wider area, that no such structures are available within the defined search ring or beyond and therefore that there is no potential to co-locate at another existing telecommunications structure. I finally note the proposals allow for the future co-location of a separate operator at the site.
- 7.3.3. I am satisfied that the Applicant has explored all potentially viable alternative sites (with existing telecommunications infrastructures) in the area and, in doing so, has suitably justified the proposed development in terms of Co-Location. Notwithstanding this there are other, more substantive, issues raised throughout this report.

### **7.4. Visual Clutter and Visual Impact**

- 7.4.1. I note the 3 no. existing telecoms cabinets at this location, together with street signage, traffic lights and lighting stands. I further note that a telephone box, as referenced in the Local Authority (Environment and Transportation Department) Report, has been removed, and was not in place at the time of my site inspection. The proposed development would lead to the installation of an additional 3 no.



telecoms infrastructure items at this location in the form of 2 no. cabinets and 1 no. 18-metre-high monopole.

- 7.4.2. I note the guidance provided in Section 15.17.4 (Outdoor Seating and Street Furniture) of the Development Plan. I am satisfied that this guidance is applicable to the subject proposal as it involves the provision of street furniture within the public realm.
- 7.4.3. In my opinion, the proposed site area of approximately 9 sqm, i.e. 4.86 metres in length and 1.85 metres in width/ depth is not insignificant and as shown on the submitted plans the proposed site is proposed to occupy over 50% of the width of the public footpath at this location. The site is located at a prominent and highly visible intersection. The site is also located within a residential area, where the relevant land use zoning (Z2) is Residential Neighbourhoods (Conservation Areas)). The Board will note the proximity of the site to a series of nearby Protected Structures located on the southwestern side of Clonskeagh Road. Although the proposed development site is within the public domain and is unzoned, it nevertheless forms part of the established streetscape, located within a residential conservation area.
- 7.4.4. I note the concerns of the Local Authority, particularly the Transportation Planning Division, wherein they consider the proposal (i.e. the proposed monopole and 2 no. cabinets) would cause an obstruction to pedestrians and would impede their desire lines at this bend in the road. This is based on a scenario where the cabinet doors are open. I estimate the separation distance in such a scenario, i.e. from the open cabinet door to the edge of the public footpath, to be a maximum of 1.8 metres.
- 7.4.5. I note the Applicant's response to this issue as set out in the appeal where reference is made to a future Active Travel Plan (Clonskeagh to City Centre) for the area and the associated proposed future widening of the footpath at this location. The Applicant has provided a map extract, figure 16, which shows the said proposed future widening of the footpath at this location. The Applicant submits that the current proposed layout provides over 2 metres of footpath clearance for pedestrian movements. This is not disputed as this stated figure of 2 metres relates to a scenario where the cabinet doors are closed.

- 7.4.6. The Applicant submits that the cabinet doors will remain closed and will only be opened once annually for servicing. I have no reason to dispute this, and I consider that such servicing is likely to be infrequent and that therefore the cabinet doors would, for most of the time, remain closed.
- 7.4.7. I note from Dublin City Council's Website that the relevant Active Travel Scheme (Sandyford Clonskeagh to Charlemont Street Project) has been deemed to be exempt from a requirement to obtain planning permission and that the said scheme is presented in 2 phases, i.e. an interim phase to be delivered by Q4 2024 and a permanent scheme to be completed between 2025 and 2028. I further note that the Landscaping General Arrangement Drawing (no. 7 of 9), Rev. P03, for the 'Permanent Scheme' shows proposed low-level ornamental planting close to the location of the subject appeal site. I have attached a zoomed extract from this said drawing as part of the Photo Presentation. It is my opinion that the installation of the proposed development at this location will serve to conflict with the proposed landscaping arrangements (proposed low-level ornamental planting) set out on the above drawing and would serve to create a permanent narrow pinch point on the public footpath of less than the minimum 1.8 metres width recommended in the Design Manual for Urban Roads and Streets (DMURS). In this regard I would consider the proposed development together with the landscaping arrangements proposed under the Active Travel Scheme has the potential to impact negatively upon the safety of road users, including pedestrians.
- 7.4.8. I note the Applicant's Visual Assessment as set out in Sections 6.4 to 6.14 of the Planning Statement lodged as part of the planning application documentation and the conclusions reached therein. The Visual Assessment is based on 4 no. selected viewpoints (VPs 1 to 4). Each of the selected 4 no. viewpoints are indicated to have a high sensitivity owing primarily to the location of the site within a residential area with viewpoints 1 and 4 found to have an additional high sensitivity due to road users, including pedestrians. In each case the Applicants' Visual Assessment found there would be no significant visual effect presented as a result of the proposed development.
- 7.4.9. The Local Authority consider that viewpoint 3 (VP3), which taken along Sandford Road at the entrance to Milltown Park, does not provide a clear view of the junction or the position of the proposed development. I would share the concern of the Local

Authority that while the proposed pole and 2 no. associated cabinets are of standard telecommunications infrastructure scale, their position at this prominent junction would serve to impact negatively upon the established visual amenities of the area.

- 7.4.10. I would further share the view of the Local Authority that the proposed development together with the existing 3 no. cabinets at this location would serve to add to visual clutter along the streetscape and that this would be contrary to recommendations set out in Section 15.17.4 of the Plan regarding Outdoor seating and Street Furniture.

#### **7.5. Built Heritage/ Residential Conservation Area**

- 7.5.1. I note the established residential character of the area and the surrounding predominant Z2 (Residential Neighbourhoods (Conservation Areas)) zoning. The subject site is proximate to several Protected Structures to the west, southwest and south along the southwest side of Clonskeagh Road, see House no's 1 to 12, St. James Terrace (RPS. Ref. No's 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919 & 1920). I estimate that the subject appeal site is within 18 metres from the curtilage of nearest Protected Structures (House no's. 1 & 2, St. James Terrace, RPS Ref. No's. 1909 & 1910) and within 38 metres from house no. 2 St. James Terrace.
- 7.5.2. Although the site is not strictly located within a defined Conservation Area, it is nonetheless surrounded to the north, south and east by Z2 zoning. It is my view that any development proposed in this location has the potential to impact upon the said adjacent Z2 zoned lands, the zoning objective for which is *'to protect and/or improve the amenities of residential conservation areas.'*
- 7.5.3. Policy BHA9 (Conservation Areas) of the Development Plan is of relevance to the subject proposals. The policy, in the first instance, seeks to protect the special interest and character of all Dublin's Conservation Areas and states that *'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.'*
- 7.5.4. The Telecommunications Guidelines, 1996, provide guidance in respect of sensitive landscapes, as follows: *'Areas legally designated for environmental conservation must be given the required protection when considering planning applications for mobile telephony infrastructure. Accordingly, fragile landscapes have to be treated*

*sensitively, scenic views preserved, archaeological/geological sites and monuments and buildings of historical and architectural interest protected and sacred areas respected.'*

7.5.5. Having regard to the prominent location and setting of the subject site, located within an established residential conservation area, the concerns raised above in relation to visual clutter and visual amenity, the proximity of the site to numerous Protected Structures, the provisions of Policy BHA9 and the Guidance provided in the Telecommunications Guidelines, 1996, in relation to sensitive landscapes, I am satisfied that the proposed development will serve to impact negatively upon the established residential and visual amenities of the area and the residential character and built heritage of the area. The proposed development will, in my opinion, also result in the provision of discordant/ incongruous features in the area and will serve to present an undesirable precedent for similar proposals into the future. The proposed development is therefore not considered to be in accordance with the proper planning and sustainable development of the area.

7.5.6. It is recommended that permission be refused.

## **8.0 Appropriate Assessment Screening**

### **8.1. Appropriate Assessment Screening**

8.1.1. Given the nature and scale of the development proposed, which is for a telecommunications support structure and ancillary works, and separation distance from the nearest Natura 2000 site, it is considered that the proposal would not be likely to have a significant effect individually or in combination with other plans and projects on a European site and there is no requirement for a Stage 2 Appropriate Assessment.

## **9.0 Recommendation**

9.1.1. I recommend that a licence be REFUSED for the following reasons and considerations set out below.

## 10.0 Reasons and Considerations

1. Having regard to the proposed location of the telecommunications cabinet and street pole at a prominent intersection and focal point in the surrounding area, in close proximity to numerous Protected Structures and residential properties and within a Residential Conservation Area, as well as existing telecommunications equipment already at this location, it is considered that the proposed development would be contrary to Policy BHA9 of the Dublin City Development Plan in relation to Conservation Areas, which states that new development should enhance the character and setting of the area and its setting, wherever possible and Section 15.17.4 Outdoor Seating and Street Furniture which states that development should be so located to prevent clutter of all footpaths. The proposed cabinets and pole would be seriously injurious to the visual amenities of the area in terms of a negative visual impact and would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Frank O'Donnell  
Planning Inspector

21<sup>st</sup> October 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-319380-24		
<b>Proposed Development Summary</b>	Telestructure		
<b>Development Address</b>	Clonskeagh Road, Donnybrook, Dublin 4		
<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>Yes</b>	<b>X</b>
		<b>No</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>		N/A - Not a Class	EIA Mandatory EIAR required
<b>No</b>	<b>X</b>	N/A - Not a Class	Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>	<b>X</b>	N/A – Not a Class	No EIAR or Preliminary Examination required
<b>Yes</b>		N/A – Not a Class	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

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

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_