



An
Bord
Pleanála

Inspector's Report

ABP-321141-24

Development	The installation of rooftop ballast mounted telecommunications equipment and all associated works.
Location	Block A, Herberton Apartments, James's Walk, Rialto, Dublin 8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	WEB1987/24
Applicant(s)	On Tower Ireland Limited
Type of Application	Planning Permission
Planning Authority Decision	Grant permission with conditions
Type of Appeal	Third Party
Appellant(s)	Alison & Mark Whelan
Date of Site Inspection	05 th February 2024
Inspector	Sarah O'Mahony

1.0 Site Location and Description

- 1.1. The subject site is situated on the rooftop of a four to seven storey mixed use building to the South of St. James's Hospital in Dublin city centre. The Fatima Luas stop is situated immediately northeast of the site which has frontage onto James Walk to the north, Reuben St to the east and St. Anthony's Road to the west.
- 1.2. The ground floor comprises commercial uses however the upper floors and majority of the building comprises apartments. The building is one of 4 such blocks forming one scheme. The building comprises four wings centred around a large open courtyard. The proposed development is primarily focussed on the eastern wing however some enabling works such as cables and access ladders require works on the rooftop of each wing.

2.0 Proposed Development

- 2.1. Planning permission is sought for development which comprises the following:
 - Installation of 3no. structures on the roof to support telecommunications equipment including 6no. antennae, 2no. dishes and remote radio units.
 - The structures would be ballast mounted and ranging from c.1.5-3m in height above the roof level.
 - Cable trays, access ladder and all associated works.

3.0 Planning Authority Decision

3.1. Decision

A notification of decision to GRANT permission was issued by Dublin City Council on 30th September 2024 subject to 6no. standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planners report recommendation to grant permission is consistent with the notification of decision which issued.

- The report considered that the justification for the development was acceptable and that the proposal would not have a significant or adverse visual impact on the surrounding area.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.

3.2.2. Other Technical Reports

- Drainage Division – report received outlining no objection to the proposal subject to a condition requiring the Developer to adhere with guidance.

3.3. Prescribed Bodies

- Submission received from TII requesting the Planning Authority to have regard to relevant guidance documents relating to works adjacent national roads and light rail networks.

3.4. Third Party Observations

3 no. submissions were received objecting to the proposal on the following grounds:

- Misleading statements in the Planning Statement,
- Inappropriate site selection with alternatives suggested,
- Structural integrity of the roof,
- No fire and safety certification in place for the building,
- Health concerns from emissions and interference with electronic equipment such as hearing aids,
- Procedural errors.
- Consent issues,
- Visual impact,

4.0 Planning History

The mixed-use complex has an extensive planning history however there is no relevant recent history. The parent permission is as follows:

- ABP ref. EL29S.EL2044: Planning permission granted for re-development of Fatima Mansions Phase II, Rialto, Dublin 8. The proposed development comprises the demolition of Block numbers A, B, C, D, E, H, J, K, M and the two community buildings situated between Blocks K and M and between Blocks H and J, the construction of 506 new one, two and three bedroom units in 6 number blocks, varying from three to seven storeys in height, the extension of St. Anthony's Road to St. James's Walk, provision of a new street between Clarke's Terrace and Reuben Street, and a new-east-west street through the site, commercial/retail/enterprise space of 3,398 square metres, Fitness/Sports facilities including a swimming pool – total space 2,415 square metres, a neighbourhood centre including crèche and café – total space 2,655 square metres (of which 630 square metres is a crèche and a 143 square metres café), and all ancillary works including site development, streetscaping, landscaping and recreational works for the Phase II area.
- The grant of permission has no conditions restricting further rooftop development.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028 (referred to hereafter as the CDP). The site is zoned Z3 for neighbourhood centre use where the objective is *to protect, provide for and/or improve mixed-use neighbourhood centre facilities*.
- 5.1.2. Chapter 9 of the plan refers to Sustainable Environmental Infrastructure and Flood Risk. Section 9.5.11 therein specifically addresses 'Digital Connectivity Infrastructure' and I note Policy SI45 supports digital connectivity as follows:

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).

- 5.1.3. Policy SI48 seeks to promote co-location of telecoms support structures in order to reduce an unnecessary proliferation and duplication of such structures.
- 5.1.4. Section 15.18.5 of the Plan is within the Development Standards chapter and sets out guidance for locating telecommunications structures. It seeks to locate such structures in industrial estates or lands zoned for industrial or employment uses in the first instance. It also states:

“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.”

5.2. Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996

- 5.2.1. The guidelines provide details on both technical and location/siting information to inform preparation of and assessment of a planning application.
- 5.2.2. Section 4.2 provides guidance in relation to design and siting while Section 4.3 refers to the visual impact of such structures. The Guidelines acknowledge that the applicant will only have limited flexibility as regards selecting a location given the constraints arising from technical radio and engineering parameters. It states that visual impact will, by definition, vary with the general context of the proposed development and that some masts will remain quite noticeable in spite of best precautions. It recommends that in the vicinity of larger towns and in city suburbs operators should endeavour to locate in industrial estates or in industrially zoned land or potentially ESB substations. It also advocates for locating infrastructure on existing tall buildings or other tall infrastructure instead of constructing an independent antennae support structure.
- 5.2.3. It states that only as a last resort, and if the alternatives 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 proposed 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.

5.2.4. Section 4.6 states:

“As part of their planning application operators should be required to furnish a statement of compliance with the International Radiation Protection Association (IRPA) Guidelines (Health Physics, Vol. 54, No. 1 (Jan) 1988) or the equivalent European Pre-standard 50166-2 which has been conditioned by the licensing arrangements with the Department of Transport, Energy and Communications and to furnish evidence that an installation of the type applied for complies with the above guidelines.”

5.2.5. Circular PL 07/12 was issued in 2012 as an update to the guidelines and states:

“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.”

5.3. Natural Heritage Designations

The Grand Canal proposed Natural Heritage Area (pNHA) is situated 510m southwest of the site. The site is also situated 5.3km west of:

- South Dublin Bay Special Area of Conservation and pNHA,
- South Dublin Bay and River Tolka Estuary Special Protection Area.

5.4. EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

One third party appeal is received from Alison & Mark Whelan which raise the following grounds for appeal:

- Allegations of misleading statements in the application documents as the Applicant is not a statutory undertaker.
- Procedural errors regarding erection of site notices,
- Inappropriate site selection, alternative location suggested on nearby building,
- Structural integrity of the rooftop,
- Health impacts from transmission emissions.

6.2. Applicant Response

- Clarification that the Applicant is a statutory undertaker,
- Suggested alternative building to mount the structures was discounted in the design stage as it is outside the range of coverage for the area.
- A structural survey is included which demonstrates that the rooftop has the integrity to accommodate the proposed structures as designed.
- In response to potential health impacts, the Applicant highlights that Planning Authorities are directed to refrain from assessing this matter which is regulated by the Commission for Communications Regulation. A letter is also appended which outlines that all such telecommunications 'H3G base stations' comply with the specified limits and that the Communications Regulator carries out random testing to ensure compliance.
- Regarding the erection of site notices, the Applicant states the notices were appropriately erected on all four facades of the building in publicly visible locations. It also highlights the Case Planners report which considered the site notices to be acceptable.

7.0 Assessment

7.1. Introduction

- 7.1.1. The site is situated on Z3 zoned lands which are zoned for neighbourhood uses. Public service installations are noted to be permissible in principle in Section 14.7.3 of the Plan. Appendix 15 provides a definition of public service installations which includes service installations necessary for telecommunications. In this regard I consider that the principle of development is acceptable on the site.
- 7.1.1. The appeal considers there were procedural errors in the application relating to erection of site notices and that additional notices were required. I note this was also raised in a submission made to the application which the Local Authority had regard to. Validating a planning application is a matter for the Local Authority and I am satisfied that the matters raised did not prevent the concerned parties from making representations. I am also satisfied that sufficient information has been submitted to allow an assessment of the proposed development to be undertaken and this assessment represents my de novo consideration of all planning issues material to the proposed development as outlined below.
- 7.1.2. For clarity, 4no. site notices were erected on the building, on one elevation. Article 19(1)(c) states that a site notice shall be erected on or near the main entrance to the land or structure concerned from a public road, or where there is more than one entrance from public roads, on or near all such entrances, or on any other part of the land or structure adjoining a public road. I consider the erection of a site notice on the ground floor of each elevation, in conspicuous locations as highlighted by the site location map received with the application, is sufficient grounds to ensure compliance with Article 19(1)(c) as the notices were publicly visible and legible near each entrance.
- 7.1.3. 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/national policies and guidance, I consider that the main issues in this appeal therefore are as follows:
- Site selection and visual impact

- Structural integrity
- Health impacts

7.2. Site selection and visual impact

- 7.2.1. The appeal suggests an alternative building within the St. James Hospital campus should be utilised in lieu of the subject site however the Applicant responded by highlighting how it lies outside the geographic range to provide the coverage required.
- 7.2.2. The Applicant's response to the appeal provides service coverage maps illustrating where network deficiencies lie. It also provides a table of the closest existing base stations in the area which outlines how 4no. of the identified 6no. stations, including one at St. James's Hospital, are outside of the range where an updated service is required. The remaining 2no. are already supporting 3no. operators including the proposed operator in this case which, together with the coverage maps, justifies why additional base stations are now required. The report goes on to say that the subject site is a last resort and is the lowest height possible in order to provide coverage over tall trees and buildings in the locality. I consider that the Applicant has provided a robust justification to demonstrate why the subject site was chosen.
- 7.2.3. The proposed installation would comprise three separate structures c. 1.6-3m in height which would be visible from the surrounding street network as is clearly demonstrated in the photomontages provided by the Applicant. They would also be more clearly visible from apartments at the upper levels of the site and the adjacent buildings. Even so, I consider that its visibility alone is not sufficient to refuse permission. In my opinion the visual impact of the development would not be significant having regard to the surrounding roofscape and urban area which is very varied in building type, form and scale. In this context a good degree of visual absorption is already provided as a backdrop to the proposed development and I do not consider the magnitude of change to be significant.
- 7.2.4. I consider that the proposed location and siting of the telecommunications structures are acceptable and comply with the 1996 guidelines as existing tall buildings are being utilised in this urban and residential location, where there is no suitable industrial estate or zoned land within the area of poorer coverage, and which negates the need for a standalone support structure.

7.3. Structural integrity

7.3.1. The appeal considers the proposed ballast mounted installation method to be inappropriate and states that no expert evidence is provided to demonstrate otherwise. The Applicant responded by submitting a 'Structural Analysis and Design Calculation' report prepared by chartered Engineers which concludes that the proposed installation method is appropriate.

7.3.2. I note the contents and conclusion of the assessment received and have no further concerns regarding the stability of the rooftop installation.

7.3.3. Health Impacts

7.3.4. Concerns are raised that there may be health impacts to residents of the nearby apartments arising from transmission type emissions generated by the telecommunication equipment. While not specified, I understand these emissions include radio waves, radiation and electro magnetic fields. As noted previously, Planning Authorities are limited in the assessment of health impacts from telecommunications equipment which are subject to a separate consent process by the Commission for Communications Regulation. Proposed operators of such equipment are required under 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996' to submit a statement of compliance with the International Radiation Protection Association (IRPA) Guidelines with the planning application and such a statement is received in this case. The Applicant has therefore discharged their responsibilities in this regard and An Bord Pleanála has no further remit to assess health impacts from telecommunications structures.

8.0 AA Screening

8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

8.2. The site is also situated 5.3km west of South Dublin Bay Special Area of Conservation and South Dublin Bay and River Tolka Estuary Special Protection Area.

- 8.3. The proposed development comprises erection of telecommunications structures on the rooftop of a mixed-use structure.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- 8.6. The small scale and domestic nature of the works in a serviced urban area,
- 8.7. The distance from the nearest European site and lack of connections, and
- 8.8. Taking into account screening report/determination by LPA,
- 8.9. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.10. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that planning permission is granted, subject to conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to:

- (a) the national strategy regarding the improvement of mobile communications services,
- (b) the guidelines relating to telecommunications antennas and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996,
- (c) the Dublin City Development Plan 2022 – 2028 including the Z3 zoning, Policy SI45 and Section 15.18.5,
- (d) the Circular Letter PL07/12 issued by the Department of the Environment, Community and Local Government in October 2012, and

(e) the nature and scale of the proposed telecommunications support structure,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area and would not be contrary to the overall provisions of the current Development Plan for the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.
2.	The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with this application and, notwithstanding the provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, shall not be altered without a prior grant of planning permission. Reason: To clarify the nature and extent of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations.
3.	In the event of the telecommunications structure and ancillary hereby permitted ceasing to operate for a period of 12 months, the structures shall be removed and the site shall be reinstated within 3 months of

	their removal. Reason: In the interest of the visual amenities of the area.
4.	The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme. Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

Sarah O'Mahony
Planning Inspector

25th February 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	321141-24		
Proposed Development Summary	The installation of rooftop ballast mounted telecommunications equipment and all associated works.		
Development Address	Block A, Herberton Apartments, James's Walk, Rialto, Dublin 8		
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	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	X		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	N/A		
No	N/A		

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	N/A		

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		

Inspector: _____ Date: _____