

An
Bord
Pleanála

Board Order
ABP-311679-21

Planning and Development Acts 2000 to 2021

Planning Authority: Dún Laoghaire-Rathdown County Council

Planning Register Reference Number: CRM230007

Appeal by Lorcan Quinn of 77 Barton Road East, Dublin against the decision made on the 23rd day of July, 2021 by Dún Laoghaire-Rathdown County Council to grant, subject to conditions, a licence to Cignal Infrastructure Limited care of CMC Planning Consultants of Fumbally Exchange, Argus House, Blackpitts, Dublin.

Licence Application: Place and maintain one telecommunications cabinet measuring externally 1.54 metres cubed (1.17 metres long by 0.798 metres wide by 1.652 metres high) and a pole area 0.824 metres (height 15 metres), at 77 Barton Road East, Dublin.

Decision

In exercise of the powers conferred on it under section 254 of the Planning and Development Act, 2000, as amended, An Bord Pleanála, directs the planning authority to **GRANT** a licence, based on the reasons and considerations under and subject to the conditions set out below.

REASONS AND CONSIDERATIONS

Having regard to the provisions of section 254 of the Planning and Development Act 2000, as amended, to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2022 - 2028, including Policy Objective E120 which seeks to promote and facilitate the provision of an appropriate telecommunications infrastructure within the county, and to the nature, height and scale of the development and its location along a public road, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would not negatively impact upon the convenience and safety of road users including pedestrians. It is further considered that there is no requirement for Appropriate Assessment. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the licence application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This licence shall be valid for five years from the date of this Order. The telecommunications structure and related ancillary structures shall then be removed, and the lands reinstated on removal of the telecommunications structure and ancillary structures unless, prior to the end of the period, continuance shall have been granted for their retention for a further period.

Reason: To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the specified period.

3. No additional dishes, antennae or other equipment, other than indicated on drawing number CIG_01198-105 (Rev B), received by the planning authority with the application, shall be attached to the pole or otherwise erected on the site, without first obtaining the written consent of the planning authority.

Reason: In the interest of visual amenity.

4. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or within the curtilage of the site.

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

In deciding not to agree with the Inspector's recommendation to refuse the licence, the Board considered that in respect of the first reason for refusal, the siting of the telecommunications infrastructure is along a public road and would, therefore, be in accordance with the requirements of section 254(c) of the Planning and Development Act 2000, as amended. The Board noted the definition of 'public road' contained within section 2 of the Planning and Development Act, 2000, as amended, as having the same meaning as that set out in the Roads Act, 1993, as amended, and the definitions therein, including that a 'road' includes a footpath. The Board is satisfied that the infrastructure is located alongside the footpath and is, therefore, by reference to the definition, located along a public road. The Board did not share the view of the Inspector that the location is an area of public open space, but rather was satisfied, based on the examination of the documentation and drawings on file, that it is a grassed area located at the end of a row of houses through which a footpath has been laid.

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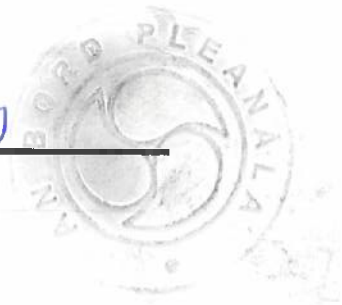
In respect of the inspector's second reason for refusal, the Board noted the Inspector's reference to the "Telecommunications Antennae and Support Structures Guidelines for Planning Authorities" issued by the Department of the Environment and Local Government in July 1996 which the Board noted were prepared as guidelines to planning authorities, in respect of their functions on telecommunication infrastructure, primarily including guidance on siting and location of antennae, support structures, masts and ancillary equipment. Reference to permitting free-standing masts in a residential area only as a last resort, as contained in the guidelines and referred to in the Inspector's reasons and considerations, was not considered by the Board to be a material consideration in the assessment of the section 254 licence for the current proposal, which does not comprise a free-standing mast, but rather comprises overground electronics communication infrastructure, specifically a smart street pole structure. The Board is satisfied that the proposed development the subject of the licence application comprises infrastructure that is modest in height and scale. Taking into account the context of other infrastructure proximate to the site, including lighting columns, and having regard to its positioning at the end of a row of houses on a grassed area adjoining the public road and taking into account the limited direct views from existing houses that are separated from the infrastructure by approximately 47 metres, the Board did not agree with the Inspector that the infrastructure would constitute a visually obtrusive development in the immediate vicinity of established housing or that it would give rise to an adverse visual impact on adjoining residential properties or conflict with any relevant guidance set out.

Patricia Calleary

Patricia Calleary

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this 18 day of April 2023.