



An
Bord
Pleanála

Inspector's Report PL29N.247137

Development	Retention of overhead telephone service cable at dwelling house.
Location	7 Oulton Rd, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3039/16
Applicant(s)	Tony Towell
Type of Application	Permission to retain
Planning Authority Decision	Permission with conditions.
Type of Appeal	Third Party
Appellant(s)	Eileen Lynam
Observer(s)	None
Date of Site Inspection	1 st December 2016
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site is that of a dwelling house on an infill site fronting Oulton Road and to the front of Tudor House being situated in its former original driveway now replaced by alternative access off Kincora Park in Clontarf. It is flanked by no.1 Oulton Road which also fronts Oulton Rd. Nos. 32 and 31 Kincora Park back onto the northern side of the site.
- 1.2. The dwelling house is relatively recently constructed and notably has an overhead cable attached to the south end of the house façade and this connects to a pole across the road to the north west. This pole supports multiple house connections. The route of the connection traverses the south west corner of no.32 Kincora Park – home of the appellant.

2.0 Proposed Development

- 2.1. Permission is sought to retain an overhead wire providing connection to a telephone service contrary to the specific condition of permission restricting overhead cables.

3.0 Planning Authority Decision

3.1. Decision

Grant of permission subject to two conditions. Condition 1 is a standard compliance condition and condition 2 relates to standard compliance with the engineering divisions of the planning authority.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports: The planning authority notes that the applicant is seeking to regularise non-compliance with a condition of permission in relation to overhead cables. It notes the concerns of the objector in the adjacent property regarding consent and visual amenity

While stating its preference for undergrounding of cables the existence of overhead cables and wires above is noted. It is also noted that no additional poles are proposed and that these would be exempted in any event and were notably not de-exempted in original permission. It notes that an alternative pole would require more extensive wire in the street. It is accordingly considered to be acceptable.

3.2.2. Other Technical Reports

- Drainage Division: No objection subject to standard condition relating to Code of Practice for works.

3.3. **Third Party Observations**

The appellant lodged an objection primarily on grounds of the conditional permission on by An Bord Pleanála, the absence of consents and amenity issues

4.0 **Planning History**

- 4.1. PL29N.230323 refers to a decision to grant permission on appeal for the subject dwelling house. Condition 5 requires 'All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.
- 4.2. Dublin City Council enforcement file EO958/15 refers to the subject overhead telephone line.

5.0 **Policy Context**

5.1. **Development Plan**

- 5.1.1. The site is in an area governed by the objective to protect, provide and improve residential amenities' (Z1) under the current Dublin City Development Plan 2016-22 which came into effect on October 2016

5.2. Natural Heritage Designations

Not relevant

6.0 The Appeal

6.1. Grounds of Appeal

- Telephone service can be provided wirelessly
- Cable traverse private property of appellant whereas it should be contained within the applicant's holding
- Impact on visual amenities of appellant's home and wider street.
- Alternative route to other pole to the south of the site
- The subject dwelling also breaches another condition of permission regarding window openings.

6.2. Applicant Response

- Adherence to condition 5 as far as is possible.
- Eircom does not presently provide underground cabling in street. Applicant agreeable to future underground ducting when available.
- Undergrounding within site would require new pole on street and this is outside applicant's control. Eircom unwilling to provide this.
- Overhead system in street and additional wire in this context not material
- Alternative pole outside control of applicant and would result in more extensive overhead wire distance
- Appeal considered vexatious in view of the initial objection to the house in principle and the appellant reliance on overhead cabling.

6.3. **Planning Authority Response**

- No further comment

7.0 **Assessment**

7.1. **Issues**

7.1.1. In this case the applicant is seeking to regularise compliance with a condition of permission requiring underground cable connection for an infill dwelling house in an established housing area. The third party appellant is opposed to its retention and the issues accordingly primarily centre on

- Principle of development in context of visual amenity and streetscape
- Legal entitlement

7.2. **Principle**

7.2.1. The basis for restricting overhead cabling is to protect the visual amenities of the streetscape by way of minimising visual clutter. Accordingly, where there are less intrusive alternatives such as underground cabling this is preferable. In this case telephone connection is not readily available underground as apparent in the attached correspondence from the telephone service provided. This is apparent by the overhead wirescape in existence in this mature residential road which serves multiple but widely spaced dwellings. In this context an additional overhead wire would not in my opinion constitute an unduly incongruent feature. Furthermore, I note that this is not a designated Z2 conservation area which is characteristic of a few more mature pockets of housing in the Clontarf vicinity. Over the longer term it is preferable that the wirescape would be re-routed underground in the interest of visual amenities of the wider streetscape and I note that the applicant has indicated a willingness to do so and this I consider could be addressed in a condition of permission. In these circumstances I do not consider it reasonable to refuse permission for an overhead telephone line on grounds of visual amenity.

7.3. Legal Entitlement

- 7.3.1. The appellant is also opposed to the overhead line traversing her property which in this case relates to the south west corner of the rear garden where it fronts Oulton Road. It is argued that aside from the legal consent issues the wire would compromise landscaping of private open space which is subject to potential overlooking from opening windows. The Planning Acts do not however in providing permission to develop on an application site permit overriding other legislative provisions. Trespassing or over sailing private property is a civil matter. Accordingly, it is not within a scope of permission for the subject development to provide consent in lands outside the application site as outlined in red which includes the appellant's property. In this context it should be clarified that permission in this instance would relate to provision of an overhead line but not precise routing which would be contingent on the consents external to the site. Accordingly, if the applicant proposes to reroute the connection to a new or other existing pole in the public footpath external to the site a permission should neither hinder or require such a connection as it is cannot be within the scope of the permission.

7.4. Other appeal matters

- 7.4.1. With respect to protection of private views I consider it only relevant to comment on the wirespace within the application site which is no different in visual terms than that prevailing in other dwellings including the appellant's home. I do not consider an altered private view for reasons already stated to constitute grounds for refusal.
- 7.4.2. Finally, the applicant seeks to dismiss the appeal on grounds of it being vexatious. Having regard to the issues which relate visual amenity and my foregoing assessment I consider the appeal to be valid.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

8.0 Recommendation

- 8.1. I recommend a decision to grant permission with varied conditions of permission to that of the planning authority to clarify its scope.

9.0 Reasons and Considerations

Having regard to the nature of the proposed development the Board is satisfied that the proposed development would be in keeping with the existing character and pattern of development in the immediate area and would not otherwise unduly detract from the existing visual amenities of the area. The proposal would otherwise be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 3rd June 2016 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 permission is for the provision of an overhead telephone service cable only within the application site. The precise route may be adjusted within the site to permit public connection subject to compliance with the requirements of the planning authority. The developer shall agree such details in writing with the planning authority prior to commencement of such development.

Reason: In the interest of clarity

In the event of underground connection to a telephone service being

- 3 available in the vicinity of the dwelling house, the owner of the house shall provide an underground connection within one year of this availability and remove the overhead wiring upon commissioning of service.

Reason: In the interest of orderly development and visual amenities of the area.

Suzanne Kehely
Senior Planning Inspector

5th December 2016