



An
Bord
Pleanála

Inspector's Report 306033-19

Development	Signal smart streetpole solution and operator cabinet
Location	Dr. McGinley Road, Ballyboe, Glencar, Letterkenny, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	19/06
Applicant(s)	Signal Infrastructure
Type of Application	S. 254 Licence
Planning Authority Decision	Grant licence
Type of Appeal	Third Party
Appellant(s)	Glencar Residents
Observer(s)	None
Date of Site Inspection	18 th February 2020
Inspector	Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site is located at Dr. McGinley Road, Ballyboe, Glencar, Letterkenny, Co. Donegal. The site is located on a grass verge on the eastern side of the road, proximate to the junction with Circular Road to the south. Dr. McGinley Road provides access into a residential estate to the north/north-west of the application site.
- 1.2. The site is bounded by an area of public open space to the north and east and is partially screened from this space by existing shrubs and planting. A public lamp standard is located on the grass verge to the north of the site, while 1 no. traffic sign is located on the public footpath to the south at the estate entrance.

2.0 Proposed Development

- 2.1. The proposed development comprises a freestanding galvanised pole structure and antennae with an overall height of 15 m and associated operator cabinet. The diameter of the pole and antennae ranges from 0.324 m - 0.406 m.
- 2.2. The pole and antennae are intended to allow operators to deploy 3G and high speed 4G broadband services in the area.
- 2.3. The proposed development, together with 1 no. electrical pillar box, were implemented on site at the time of the inspection.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Section 254 licence granted on 11th June 2019 subject to 8 no. conditions.
- 3.1.2. Condition no. 1 limits the duration of the licence to a period of 1 year.
- 3.1.3. All other conditions are generally standard in nature.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports (4th June 2019)**

3.2.2. Basis of Planning Authority's decision. The principle of the development was considered acceptable, with no siting or design concerns arising.

3.2.3. **Other Technical Reports**

3.2.4. None.

4.0 **Planning History**

4.1. None.

5.0 **Policy and Context**

5.1. **Donegal County Development Plan 2018-2024**

5.2. **Zoning**

5.2.1. Map No.12.1 B (Letterkenny Land Use Zoning Map) confirms that the site is zoned as "Open Space" with the objective "to conserve and enhance land for formal and informal open space and amenity purposes, and to make provision for new recreation, leisure and community facilities".

5.2.2. Applications may be granted where the planning authority considers that the proposed use or development would comply with the zoning objective of the area and would otherwise comply with the policies of the plan and would be in accordance with the proper planning and sustainable development of the area.

5.2.3. **Policy LK-SCC-P-3:** It is the policy of the Council to protect land of recreation and open space value in order to ensure the provision of sufficient lands and amenities for the use and enjoyment of the public. There will be a presumption against development on open space.

5.3. **Telecommunications**

5.3.1. The overall aim of Donegal County Council is "to facilitate the development of a high quality and sustainable telecommunications network for the County as a critical

element to support growth in all areas of the economy and increase the quality of life for the people of Donegal”.

5.3.2. Visual amenity and environmental degradation are identified as key issues in relation to mast and antennae proposals, with both the cumulative effects and the specific impact of each individual proposal, meriting careful consideration. Co-location of antennae on existing masts and co-location of masts on existing sites is preferred in order to eliminate demand to create new mast locations, in line with the recommendations of Government Guidelines on Telecommunications Antennae and Support Structures.

5.3.3. In considering the issue of health in relation to mast and antennae proposals, the Council will be guided by the aforementioned Government Guidelines, including a requirement for planning applicants to furnish a statement of compliance with the International Radiation Protection Association (IRPA) Guidelines or European equivalent and evidence that their proposed installation complies with the guidelines.

5.3.4. **Objective TC-0-1:** To facilitate the development and delivery of a sustainable telecommunications network across the County through a range of telecommunications systems, developed with due regard to natural and built heritage and to environmental considerations.

5.3.5. **Policy TC-P-3:** It is a policy of the Council to require the co-location of new or replacement antennae and dishes on existing masts and co-location and clustering of new masts on existing sites, unless a fully documented case is submitted for consideration, along with the application explaining the precise circumstances which militate against co-location and/or clustering. New telecommunications antennae and support structures shall be located in accordance with the provisions of the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996, (or as may be amended) and shall not normally be favoured within Areas of Especially High Scenic Amenity, beside schools, protected structures or archaeological sites and other monuments.

5.4. **Natural Heritage**

5.4.1. The landscape of County Donegal is categorised into three layers of value, with the entire of Letterkenny located in An Area of High Scenic Amenity.

5.4.2. **Policy NH-P-7:** Within areas of “High Scenic Amenity” (HSC) and “Moderate Scenic Amenity” (MSC) as identified on Map 7.1.1: Scenic Amenity, and subject to other objectives and policies of this Plan, it is the policy of the Council to facilitate development of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape.

5.5. **Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996)**

5.5.1. These Guidelines establish a policy framework and provide general guidance on relevant planning issues for planning authorities, telecommunications providers and the general public.

5.5.2. In the vicinity of larger towns and in city suburbs, operators should endeavour to locate in industrial estates or on industrially zoned land. The possibilities offered by some commercial or retail areas and ESB substations should be explored. In urban and suburban areas, the use of tall buildings or other existing structures is always preferable to the construction of an independent antennae support structure. Only as a last resort should free-standing masts be located in residential areas or beside schools. 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.

5.6. **Circular Letter: PL07/12**

5.6.1. Circular PL07/12 updates sections 2.2 – 2.7 of the 1996 Guidelines. In summary, the Circular confirms that the granting of temporary permissions for telecommunication masts and antennae is not appropriate; the inclusion in development plans of minimum separation distances from such development and the lodgement of a bond or cash deposit to remove obsolete structures is not appropriate; health and safety matters in respect of telecommunications infrastructure are regulated by other codes outside the planning process; and, waivers in respect of such development should be provided in Development Contribution Schemes.

5.7. **Natural Heritage Designations**

5.7.1. None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal has been lodged by Glencar Residents, the grounds of which can be summarised as follows:

- The siting of the pole contravenes the Donegal County Development Plan given its location in an area zoned for open space/recreational purposes;
- There are no broadband service blackspots in this area;
- Local residents are concerned regarding possible health implications from radiation emissions arising from the proposed development;
- Such structures should not be dealt with under S. 254 of the Planning Act, as this process does not require public consultation;
- The pole has an adverse visual impact on the area. The location of the pole is unsuitable given its proximity to a housing estate, a public park and beside a busy roundabout, which may pose a safety risk by way of possible distraction of drivers;
- The 15 m height of the pole exceeds the maximum height of 12 m specified in S.I. No. 31/2018 Planning and Development (Amendment) (No. 3) Regulations, 2018 and therefore should be removed;
- Residents are concerned that the pole will adversely affect the saleability of properties in the vicinity and will have a negative impact on property prices.

6.2. Applicant Response

6.2.1. A response was received from the applicant on 7th January 2020, the grounds of which can be summarised as follows:

- The proposed development, together with a solution beside Letterkenny Hospital, is part of an overarching strategy to address the radio coverage needs of the western environs of Letterkenny. The investment in this infrastructure is a direct response to the gap in coverage at this location;

- All options to provide exempt solutions on commercial rooftops have been exhausted, with no such property or site available due to spatial planning or radio engineering considerations;
- The Section 254 licencing process is intended to remove barriers to the roll out and deployment of telecommunications nationally and to provide immediate solutions to mobile voice and broadband deficits;
- The location of the proposed development replicates the established street lighting and given its location on the grass verge, will not detract from the recreational use of the adjoining public open space;
- Donegal County Development Plan has no zoning matrix to support its land use zoning objectives. However, such development is generally acceptable in open space, amenity, recreational and green areas at the national level;
- The proposed development fully complies with local, county, regional and national planning policy with respect to telecommunications infrastructure;
- No existing sites or structures are suitable to facilitate the co-location of the proposed development;
- The health and safety aspects of such developments are not open for consideration by An Bord Pleanála;
- The visual impact assessment which accompanies the appeal response demonstrates that the impact of the proposed development from 11 no. surrounding viewpoints will be slight to moderate. While the entire town of Letterkenny is of “high scenic amenity”, there are no development plan policies which would deter the granting of permission;
- The proposed development will have no impact on traffic safety, with no objections raised by the planning authority on these grounds;
- The height restrictions for telecommunications structures as identified under Class 31 of the Planning and Development Regulations, 2001 (as amended) do not apply to this Section 254 licence application for telecommunications development on the public road;

- There is no evidence to suggest that the proposed development will impact negatively on property prices in the area and on the contrary, greater digital coverage will attract investment;
- Condition no. 1 of the licence which has been granted by Donegal County Council is not fair or reasonable and does not comply with Circular PL07/12 which advises that conditions which restrict the life of a permission to a temporary period should not be attached unless exceptional circumstances exist. No case has been identified for any such exceptional circumstances in this case;
- The proposed development will not have an impact on the conservation objectives of nearby designated sites, either alone or in combination with other plans/projects;
- The site is not located in the curtilage of a Protected Structure or ACA and no monuments will be impacted by the proposed development.

6.3. Planning Authority Response

- 6.3.1. A response was received from Donegal County Council on 23rd December 2019. The planning authority notes that the grounds of appeal have already been addressed in the Planning Officer's report dated 4th June 2019.

6.4. Observations

- 6.4.1. None.

7.0 Assessment

- 7.1. I am satisfied that the main issues for consideration in this case include:

- Principle of the development
- Visual impact
- Licence duration
- Appropriate assessment

- 7.2. Each of these issues is addressed in turn below.
- 7.3. **Principle of the development**
- 7.3.1. The appellant submits that the siting of the development contravenes the Donegal County Development Plan given its location on lands zoned for open space/recreational purposes. The site location is considered inappropriate given its proximity to a housing estate, a public park and a roundabout.
- 7.3.2. As identified by the applicant, the Donegal County Development Plan 2018-2024 does not include a land use zoning matrix which identifies uses which are “permissible” or “open for consideration” under each zoning objective. Rather, applications may be granted where it is considered that the development would comply with the zoning objective, the policies of the plan and would be in accordance with the proper planning and sustainable development of the area.
- 7.3.3. Further guidance in relation to open space zoned lands is provided by way of policy LK-SCC-P-3, which confirms that it is a policy of Donegal County Council to protect land of recreation and open space value in order to ensure the provision of sufficient lands and amenities for the use and enjoyment of the public. There will be a presumption against development on open space.
- 7.3.4. While it is acknowledged that the subject site is located on open space zoned lands, it is noted that the site forms part of a narrow grass verge which is functionally separated from the adjoining public open space by way of shrubs and planting. As such, it is considered that the subject site has limited value as an amenity space. It is further considered that the proposed development would have no detrimental impact on the recreation and amenity value of the primary area of public open space to the north and north-east of the application site.
- 7.3.5. The Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996) confirm that free standing masts should only be located in residential areas of larger towns as a last resort. In such cases, the support structure should be kept to a minimum height and should be monopole rather than a latticed tripod or square structure.
- 7.3.6. The nearest residential property to the subject site is No. 58 Dr. McGinley Road, which forms part of a terrace of 2-storey properties. A separation distance of c. 31 m arises between the gable end of this property and the application site. A further row

of terraced properties is located c. 90 m to the north of the application site, while a separation distance of c. 40 m arises to the nearest dwellings to the south at Glencar Park on the opposite side of Circular Road. These separation distances are considered reasonable in an urban context. It is further considered that the design of the proposed development, comprising a single monopole structure with an overall diameter of less than 0.5 metres, would not be unduly intrusive in terms of its impact on the character and setting of the neighbouring residential lands.

- 7.3.7. The applicant's appeal response confirms that the proposed development forms part of an overarching strategy to address the radio coverage needs of the western environs of Letterkenny. It is also confirmed that no existing sites or structures are suitable to facilitate the co-location of the proposed development and that all options to provide exempt solutions on commercial rooftops have been exhausted. The applicant's justification for the proposed development is considered acceptable.
- 7.3.8. Having regard to the foregoing, and the aims and objectives of Donegal County Council to facilitate the development of a sustainable telecommunications network throughout the county, it is considered that the proposed development is acceptable in principle at this location.

7.4. Visual impact

- 7.4.1. The appellant asserts that the proposed development will have an adverse visual impact on the area. In response to the foregoing, the applicant's appeal response includes a visual impact assessment which illustrates the proposed development from 11 no. viewpoints surrounding the site. The applicant submits that the visual impact of the proposed development will range from slight to moderate.
- 7.4.2. The entire town of Letterkenny is designated as an Area of High Scenic Amenity. Policy NH-P-7 of the county development plan confirms that, subject to other objectives and policies of the plan, it is the policy of the Council to facilitate development of a nature, location and scale that allows development to integrate within and reflect the character and amenity designation of the landscape.
- 7.4.3. The subject site is located in a suburban area which is characterised by a mixture of typical land uses and associated infrastructure. While it is acknowledged that the proposed development will be visible in short distance views of the site, in my opinion, the visual impact assessment which accompanies the application

demonstrates that the monopole and antennae structure will read as a normal part of the urban environment, with no significant negative visual impact arising.

7.5. Licence duration

7.5.1. Condition no. 1 of the licence issued by Donegal County Council limits its duration to a period of 1 year unless authorised for continued use by a further Section 254 licence. The applicant submits that this condition is not reasonable or fair and that no exceptional circumstances have been identified by the planning authority to justify this duration. The applicant further submits that this approach does not comply with Circular PL07/12, which advises that such conditions should not be attached, except in exceptional circumstances.

7.5.2. In considering the foregoing, I note that Circular PL 07/12 states that the attachment of conditions to permissions for telecommunication masts and antennae which limit their life to a set temporary period should cease. However, given that this appeal relates to a Section 254 licence application for development on public land, it is considered reasonable that the licence be granted for a specified duration as provided for under Section 254 (4) of the Planning and Development Act, 2000 (as amended). This will enable the Planning Authority to re-assess the suitability of proposed development at the end of the appropriate period in light of any changed circumstances pertaining at that time, with a period of 5 years considered reasonable in this instance. This matter can be addressed by way of condition.

7.6. Appropriate assessment

7.6.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend that a licence be granted for the proposed development subject to the conditions set out below.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Donegal County Development Plan 2018-2024 to support the development of a sustainable telecommunications network throughout the county, and the nature and scale of the development, it is considered that, subject to the conditions set out below, the proposed development would not be contrary to the site's open space land use zoning objective, and would not seriously injure the residential or visual amenities of the area or property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>This licence is for 1 no. 15 m freestanding pole and antennae and associated operator cabinet only in accordance with the details submitted to the planning authority on 23rd April 2019.</p> <p>Reason: To clarify the nature and extent of the permitted development to which this licence relates and to facilitate a full assessment of any future alterations.</p>
2.	<p>(a) The licence shall be valid for a period of 5 years only from the date of this Order. The telecommunications structure and related ancillary structures shall then be removed unless, prior to the end of the period, a further Section 254 licence has been granted for their retention for a further period.</p> <p>(b) The site shall be reinstated on removal of the telecommunications structure and ancillary structures. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority at least one month before the date of expiry of this licence.</p> <p>Reason: To enable the impact and acceptability of the development to be reassessed, having regard to changes in technology and design during the specified period.</p>

3.	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.
4.	The structures hereby permitted shall not interfere with existing services, existing drainage systems and shall not obstruct pedestrian access. Reason: In the interests of orderly development and pedestrian safety.

Louise Treacy
Planning Inspector

5th March 2020