



An
Bord
Pleanála

Inspector's Report

ABP-306440-20

Development	Erection of a 15 metre telecommunications mast.
Location	Castlepark Road, Ballybane, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	LIC 19/51
Applicant(s)	Cignal Infrastructure Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Cignal Infrastructure Ltd
Date of Site Inspection	04 th March 2020
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, is located in the eastern environs of Galway City at the junction of Castlepark Road and Sliabh Rua. The site is located at the edge of a green area at the inner edge of the footpath along the southern side of Castlepark Road. To the south of the site is the green area that runs along the western side of Sliabh Rua. To the south west is Ballybane Library and existing residential development (Beal Srutha), to the east is the housing development of Ard Alainn and to the north on the opposite side of Castlepark Road is the housing development Castle Park. The nearest dwelling to the site is a two-storey dwelling in Castle Park to the north, which is 60m away from the appeal site.

2.0 Proposed Development

2.1. Permission is sought for the erection of a 15m high telecommunications mast.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on two reasons...

1. The site of the proposed development of a 15 metre telecommunications monopole is located within residential neighbourhood designated an 'Established Suburb' in the current Galway City Development Plan 2017-2023. It is the policy for established Suburbs as set out in the Development Plan to ensure a balance between the reasonable protection of residential amenities of the Established Suburbs and the protection of the established character and the need to provide sustainable residential development. Having regard to the location of the proposed 15 metres telecommunications monopole within a residential neighbourhood, in proximity to existing residential properties, it is considered that the proposed development would seriously injure the residential amenities of the area and would depreciate the value of property of adjacent residences and would be contrary to policy no. 2.6 Established Suburbs that new development does not adversely affect the character and residential amenities of the neighbourhood area and Policy 9.13

telecommunications that the siting of new mobile phone installations shall only be erected within or in the immediate vicinity of residential areas when a number of other possibilities have been exhausted. The proposed development would, therefore, conflict with the policies of the City Development Plan and be contrary to the proper planning and sustainable development of the area.

2. Having regard to the proposed development, a 15 metre telecommunications monopole, in particular its height and visual prominence, and its location alongside a major access route and gateway into the established neighbourhood area of Ballybaan, and it is considered that the proposed development would have a negative impact on the visual amenities of the area and constitute a visually intrusive element in the public realm, would therefore, be contrary to Policy 9.13 Telecommunications of the current Galway City development Plan 2017-2023 which provides that development and expansion of telecommunications infrastructure within the city will only be supported where appropriate subject to environmental, visual and residential considerations, where any potential environmental impacts associated with installations are minimised. The proposed development would, therefore, conflict with the policies of the Development Plan and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (06/12/19): The location of the proposal in a residential area is inappropriate and would be contrary Development Plan policy, the proposal would have an adverse visual impact at this location. Refusal was recommended based on the reason outlined above.

3.3. Prescribed Bodies

3.3.1 None.

3.4. **Third Party Observations**

3.4.1 None.

4.0 **Planning History**

4.1 No planning history.

Adjoining sites...

4.2 LIC18/45: Permission refused for a 15m monopole telecommunications structure on a site 28m north of the current appeal site. Refused based on three reasons including proximity to residential development and contrary Development Plan policy, and adverse visual impact.

5.0 **Policy Context**

5.1. **Development Plan**

The relevant Development Plan is the Galway City Development Plan 2017-2023. The site is zoned 'R' with a stated objective "to provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods".

Policy 2.6 Established Suburbs

Ensure a balance between the reasonable protection of the residential amenities and the character of the established suburbs and the need to provide for sustainable residential development.

Encourage additional community and local services and residential infill development in the established suburbs at appropriate locations.

Enhance established suburbs, such as the Mervue residential area, through the implementation of environmental improvement schemes and the protection of all open spaces including existing green spaces.

Review and implement the draft regeneration plan for Ballinfoile Park entitled *A Better Ballinfoile* in consultation with the local community and stakeholders.

Examine potential for a regeneration plan for open space areas in Ballybaan in consultation with the local community and stakeholders.

Policy 9.13 Telecommunications

Support the development and expansion of telecommunication infrastructure (including the broadband network) within the city where appropriate, subject to environmental, visual and residential considerations.

Ensure that development for telecommunication and mobile phone installations take cognisance of the Planning Guidelines for *Telecommunications Antennae and Support Structures* (DECLG, Circular Letter PL07/12), so that any potential environmental impacts associated with installations are minimised.

Encourage the siting of new mobile phone installations to follow the hierarchy of suitable locations proposed in the DECLG Guidelines. Only when a number of other possibilities have been exhausted, masts may be erected within or in the immediate vicinity of residential areas.

Ensure that developers of masts facilitate the co-location of antennae with other operators in order to avoid an unnecessary proliferation of masts. Where this is not possible operators will be encouraged to co-locate so that masts and antennae may be clustered.

5.2 **National Policy:**

Telecommunications Antennae and Support Structures Guidelines for Planning Authorities

“Only as a last resort and if the alternatives suggested in the previous paragraph 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 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” (Circular Letter PL07/12).

5.3 Natural Heritage Designations

5.3.1 None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by Cignal Infrastructure Ltd. The grounds of appeal are as follows...

- A number of Section 254 licences for telecommunications structures have been granted in residential areas with the applicant listing a number of examples.
- The proposal is separated from existing residential development with the nearest dwelling 60m away. Reference is made to a licence application for a similar development where the distance to the nearest dwelling was 50m (ABP-305114-19).
- The proposal has a slim design and would not impact negatively on the character of the area. The proposed development is not highly visible from dwellings in the vicinity.
- It is noted that public utilities are permissible under the R zoning objective.
- In relation Policy 9.13 of the City Development Plan it is noted that other options to service the area have been exhausted and that there are no appropriate commercial rooftops or spaces suitable to provide for an alternative option. The reasons for ruling out the Library Building in the area are outlined in the grounds of appeal. The applicant has demonstrated that

there is technical justification for additional telecommunications infrastructure in this area and such was accepted by the Planning Authority in the report associated with this case.

- It is noted that the public road the site is located alongside has no special status or designated under the City Development Plan despite being described as a gateway route under the refusal reason.
- The appellant notes that the design and scale of the proposal would have an acceptable visual impact, notes that a Visual Impact Assessment was submitted with photomontages demonstrating the visual impact. There is precedent for other utility structures (CCTV) around the city that are higher than the proposed development.
- A consistent approach is advocated by the Mobile Phone and Broadband Task Force with it noted that other similar development has been granted in similar areas with the examples listed.
- It is noted that local, regional and national policy is overwhelmingly in favour of improving telecommunications infrastructure.
- It is noted that in the event of grant of permission a life limit condition should not be applied as per the Circular Letter PL07/12.

6.2. Planning Authority Response

6.2.1 Response by Galway City Council.

- The Planning Authority reiterate concerns regarding visual impact/impact on the character of the area.
- The PA note that applicant's reference to the proposal serving the Arduan area which is subject to an LAP. It is noted that provision of telecommunication structure to service such in this residential area is inequitable and unbalanced development.

7.0 Assessment

7.1 The review of the application for the license and the third-party objections can be considered below under the following headings:

Application for a License - Section 254 of the Planning and Development Act, 2000 as amended.

Appropriateness of the location, technical justification

Visual Impact

Appropriate Assessment.

7.2 Application for a License - Section 254 of the Planning and Development Act, 2000 as amended:

7.2.1 The underlying issue is as to whether the application for and assessment of the proposal by the planning authority by way of an application for a license under section 254 of the Act as opposed to a planning application under section 35 of the Act, is acceptable. It is considered that that it is demonstrated satisfactorily in the applicant's submission in connection with the appeal that an application for a license and determination of the decision to grant the license is appropriate and in accordance with the provisions of section 254 of the Act having regard to the selected location within the public realm on publicly owned lands at the roadside edge and, having regard to the nature and design of the subject communications infrastructure.

7.2.2 The appellant refers to a number of other cases for Section 254 development for similar development permitted by other Planning Authorities and the Board with residential areas. Reference has been made to a recent Board decision under ABP-305114-19 for a similar development in a residential area of Lahinch, Co. Clare.

7.3 Appropriateness of the location, technical justification:

7.3.1 One of the main reasons for refusal relates to the location of the proposed development in residential with reference to Policy 2.6 regarding Established Suburbs. I would note that the site is zoned 'R' and that public utilities are described

as “uses which may contribute to the zoning objective, dependent on the R and LDR location and scale of development”. The proposed use is consistent with the zoning objective.

7.3.2 National policy set out under the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities notes that “only as a last resort and if the alternatives suggested in the previous paragraph 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 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” (Circular Letter PL07/12).

7.3.3 I would note that the application includes a detailed technical justification for the proposed development indicating that there are service deficiencies in the area the proposal is set to address. The information on file also provides a detail of alternatives sites considered and the rationale for the siting of the development at this location. I am satisfied based on the information submitted that there sufficient technical for the proposal and for the siting of the proposal at this location. I would consider that the proposal meets the requirements of the national guidelines in terms of location of telecommunication structures. I would also note that the guidelines refer to support structures and free-standing masts. The proposal is not a support structure and is a 15m monopole that is not intended to support additional antennae. The structure in question has a much reduced physical and visual impact over a support structure intended to carry additional antennae.

7.3.4 I would note that subject to the proposed infrastructure being installed, operated and maintained so that there is compliance with the international standards relating to emission of non-ionising radiation, the safety standards under COMReg and relevant guidance, standards and legislation no issues with regard to risk to public health from a planning perspective should arise.

7.4. Visual Impact:

7.4.1 One of the main aspects of the decision to refuse relates to visual impact at this location due to the scale and design of the structure, its location along a public road described as a gateway route in the city. The proposal is for a 15m high monopole structure located along the road at the junction of Castlepark Road and Sliabh Rua. As noted above the structure is not a support structure as it is a self-contained unit and not intended to carry antennae or be added to in the future. I would consider that the structure itself is nondescript in character and design and is not dissimilar in scale or design of a lamp standard or traffic light pole. I would consider that the structure is of a design and scale that would not be out of character or be a visually obtrusive or an incongruous element in a suburban area such as this. The applicant submitted a visual impact assessment including photomontages illustrating the visual impact and such demonstrate that the visual impact would be satisfactory.

7.5. Appropriate Assessment:

7.5.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of section 254 of the Planning and Development Act, 2000, as amended, national, regional and local policy objectives, as represented in the Galway City Development Plan, 2017-2023 and the DOEHLG Section 28 Statutory Guidelines; "*Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities*, 1996, as updated by circular letter

PL 07/12 in 2012, it is considered that subject to compliance with the conditions set out below, the proposed development would not be visually intrusive or seriously injurious to the amenities of the area or the residential amenities of properties in the vicinity, would not be prejudicial to public health and, would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The license shall be valid for three years from the date of this order. The telecommunications structure and related ancillary structures including any access arrangements shall then be removed and the site lands shall be reinstated on removal of the telecommunications structure and ancillary structures unless, prior to the end of the period, planning permission 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.

2. Prior to the commencement of development, a road opening license shall be obtained by the applicant and its costs shall be paid to the planning authority, full details of which shall be subject to the written agreement of the planning authority .

Reason. In the interest of pedestrian and vehicular safety, clarity and orderly development.

3. The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with this application for the License.

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.

4. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

Reason: In the interest of public health and to prevent flooding.

5. A low intensity fixed red obstacle light shall be fitted as close to the top of the mast as practicable and shall be visible from all angles in azimuth. Details of this light, its location and period of operation shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public safety.

6. Details of the proposed colour scheme for the pole, antennas equipment containers and perimeter fencing shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

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

7. Landscaping of the site shall be carried out in accordance with a landscaping scheme which shall be submitted to and agreed in writing with planning authority prior to the commencement of development.

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

8. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or within the curtilage of the site without a prior grant of planning permission.

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

Colin McBride
Planning Inspector

25th March 2020