



An
Bord
Pleanála

Inspector's Report ABP-306474-20

Development	Construction of a 15m high telecommunications monopole and cabinet
Location	Lakeland (Ringmahon Road) Cork
Planning Authority	Cork City Council
Planning Authority Reg. Ref.	T19.014
Applicant(s)	Cellnex-Signal Infrastructure Limited
Type of Application	Application for Licence under section 254 of the Planning and Development Act
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Cellnex-Signal Infrastructure Limited
Date of Site Inspection	24 th March 2020
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site for the proposed telecommunications infrastructure is on a green area adjoining a footpath on the edge of the Ringmahon Road in Cork City. Eden Court housing estate bounds the green area to the north, while Ravensdale estate is located on the opposite side of Ringmahon Road, with green areas comprising the nearest section of this estate. A large sports area comprising GAA and rugby grounds is located to south-east.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the installation of telecommunications infrastructure under licence from Cork City Council in accordance with section 254 of the Planning and Development Act. This would consist of the erection of a 15m high monopole and cabinet. The pole would have a diameter of approximately 324mm, would be galvanised and painted up to 11.3m in height and 2G, 3G and 4G compatible antennae would be mounted to a finished height of 15m. The antennae would be shrouded by a 406mm sheath to match the pole. The purpose of the proposal is to replace an existing rooftop installation at the Lakeland Bar in Mahon.
- 2.2. The applicant's details submitted to the planning authority included a Certificate of Authorisation from ComReg.

3.0 Planning Authority Decision

3.1. Decision

On 18th December 2019, Cork City Council decided to refuse to grant the licence for one reason in accordance with the Planner's recommendation.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Planner noted that the Roads Department had no objection to the proposal. Section 4.3 of the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities was noted and it was submitted that the proposal would be visually incongruous, having regard to the greenness and scenic value of the wider setting. A refusal of the application was recommended for one reason relating to the injury and detraction from the visual and scenic amenities of the area and the proposal constituting an obtrusive feature in an area zoned public open space.

3.2.2. Other Technical Reports

The Roads Engineer had no objection to the proposal being constructed in green space subject to conditions but not within the public footpath.

4.0 **Policy Context**

4.1. **Cork City Development Plan 2015-2021**

Zoning

The location in which it is proposed to site the telecommunications infrastructure is zoned ZO 14 Public Open Space with the objective “To protect, retain and provide for recreational uses, open space and amenity facilities, with a presumption against developing land zoned public open space areas for alternative purposes, including public open space within housing estates.”

Development Management

Telecommunications

In evaluating applications for telecommunications installations, Cork City Council will have regard to “Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996)”.

4.2 Appropriate Assessment

It is reasonable to conclude that, on the basis of the information on the file which I consider adequate in order to issue a screening determination, the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

4.3 EIA Screening

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

5.0 The Appeal

5.1. Grounds of Appeal

The grounds of the appeal may be synopsised as follows:

- There would be no inter-visibility between Mahon Harbour and the site or between the N40 amenity route and the site.
- There would be no visibility of the monopole from Mahon Estuary and there would be no impacts on the intrinsic character of Lough Mahon.
- Designated scenic views will not be impacted.

- The proposal would not contravene the zoning objective. If this was the case then no public lighting or security camera poles would be permitted on open spaces.
- The City Council has established a precedent by granting licence applications under section 254, an example being Victoria Avenue, Boreenmanna Road. Other precedents are referenced in the appeal submission and a consistency of approach is requested.
- The slim-line nature of the pole ensures that it is not visually prominent or obtrusive.
- It is noted that the planning authority found no issue with the technical justification for the proposal. The technical justification is particularly strong given that it is a replacement structure. The proposal will address a coverage blackspot in the Mahon area.
- There would be no impact on residential amenities in the area.
- Local, regional and national planning policy is overwhelmingly in favour of telecommunications infrastructure such as that proposed.
- The Board is requested, if a favourable decision is forthcoming, to consider not imposing life limiting conditions which limit the duration of the licence to a period of time as the financial investment required is significant and implications for the digital network can go beyond the particular search ring. The Board is referred to Circular PL07/12. If the Board is mindful of imposing such conditions then it is requested that a significant time period such as 10 years or more be considered.

The appeal sets out the purpose of section 254 and seeks to demonstrate how the location for the proposal falls within the definition of 'Public Road'. A Visual Impact Assessment forms part of the appeal submission. The appeal also indicates why alternative sites in the area were discounted.

6.0 Assessment

6.1. Siting of the Proposed Overground Electronic Communications Infrastructure

6.1.1 I note the licensing provisions set out in section 254 of the Planning and Development Act 2000, as amended. This requires persons seeking to erect overground telecommunications infrastructure to obtain a licence from a planning authority where it is intended to erect such infrastructure on, under, over or along a public road. I note section 2 of the Act states that “public road” has the same meaning as in the Roads Act, 1993. Section 2 of the Roads Act 1993 states:

“public road” means a road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority

6.1.2 I further note that section 2 of the Roads Act states:

“road” includes -

- (a) any street, lane, footpath, square, court, alley or passage,*
- (b) any bridge, viaduct, underpass, subway, tunnel, overpass, overbridge, flyover, carriageway (whether single or multiple), pavement or footway,*
- (c) any weighbridge or other facility for the weighing or inspection of vehicles, toll plaza or other facility for the collection of tolls, service area, emergency telephone, first aid post, culvert, arch, gully, railing, fence, wall, barrier, guardrail, margin, kerb, lay-by, hard shoulder, island, pedestrian refuge, median, central reserve, channelliser, roundabout, gantry, pole, ramp, bollard, pipe, wire, cable, sign, signal or lighting forming part of the road, and*
- (d) any other structure or thing forming part of the road and—*
 - (i) necessary for the safety, convenience or amenity of road users or for the construction, maintenance, operation or management of the road or for the protection of the environment, or*
 - (ii) prescribed by the Minister;*

6.1.3 The proposed 15 metre high monopole and cabinet are proposed to be sited on public open space abutting a footpath which forms part of the Ringmahon Road. While the location for the proposed development is a peripheral part of the public open space at this location it does not form part of the footpath, pavement,

footway, kerb or any other feature of the road such as a road margin, lay-by, hard shoulder, or island that is public at this location.

6.1.4 It is my submission to the Board that the siting of the proposed infrastructure does not meet with the provisions of section 254 of the Planning and Development Act because it would not be located on a public road.

6.2 Zoning Provisions

6.2.1 The site of the proposed development is zoned 'ZO 14 Public Open Space' with the objective "To protect, retain and provide for recreational uses, open space and amenity facilities, with a presumption against developing land zoned public open space areas for alternative purposes, including public open space within housing estates." It is noted that the zoning at the location for the proposed development extends to include the site for the proposed development but clearly does not extend to include the public road. This reinforces the understanding that there is a distinction between the site for the proposed development (i.e. part of a larger open space area) and the public road.

6.2.2 Section 15.21 of the Cork City Development Plan states that it is an objective of the City Council to provide for or retain all land zoned public open space in that use. Having regard to this, it is evident that the siting of telecommunications infrastructure on zoned open space contravenes this objective as it does not retain the existing open space in that use at that location.

6.3 The Development in the Context of the Telecommunications Guidelines

6.3.1 I note the provisions of the *Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities* and the detail of Circular Letter: PL 07/12. I observe that the Circular stresses that planning authorities should be primarily concerned with the appropriate location and design of

telecommunications structures. Section 4.3 of the Guidelines refers to 'Visual Impact'. It states:

"... in city suburbs operators should endeavour to locate in industrial estates or in industrially zoned lands ... Only as a last resort ... 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."

6.3.2 It is my submission to the Board that the siting of the proposed development in an open space within a residential area of a city suburb does not sit comfortably with the Guidelines. The applicant has not clearly demonstrated that industrial estates or industrially zoned lands were examined in the wider area, that examination of sites for utilities in the wider area was undertaken, or that the site for the proposed telecommunications infrastructure constitutes a 'last resort'.

6.4 The Visual Impact

6.4.1 The proposed development would constitute the erection of a 15m high telecommunication pole in an open space adjoining a public road which is flanked by housing estates. This is a prominent open space on the approaches along the Ringmahon Road from the south-east and north-west. I acknowledge the existence of trees and lamp standards at this location, the former within the open space and the latter in the margin of the road (i.e. the area between the footpath and the road). The proposed 15 metre high telecommunications structure, however, would be very significantly higher than the lamp standards, larger in all dimensions, and would protrude substantially higher than existing trees. Being sited at the outermost edge of the open space close to the public road, it would constitute a prominent feature in this residential area. The local visual impact would be significant for the residents of this area. It could not reasonably be construed as a positive visual impact for this residential area. I consider that it is reasonable to determine that the above referenced Guidelines sought to expressly avoid residential areas in suburban locations in order to

avoid the adverse visual impact that would result from development such as that now proposed.

- 6.4.2 I am satisfied to conclude that the proposed development would have a significant visual impact at a local area. I do not consider that it would have any notable adverse impacts from any designated scenic roads beyond this residential area. Furthermore, it is not on, in or near, any particularly sensitive designated areas of natural beauty and, in the context of more distant views to this location from elsewhere, it would be understood as part of general urban fabric of this part of the city.

7.0 Recommendation

- 7.1. I recommend that permission is refused for one reason relating to the proposal not being sited within a public road and its incompatibility with the provisions of section 254 of the Planning and Development Act. If the Board is of the opinion that it could reasonably consider the proposal under section 254, I consider that the proposal would be incompatible with the site's zoning objective, it would be contrary to the *Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities* Telecommunications Guidelines and it would constitute an unacceptable visual impact. I attach alternative reasons for refusal as a result.

8.0 Reasons and Considerations

Recommended Reason

Having regard to the proposed siting of the telecommunications infrastructure on public open space and not on, over or along a public road in accordance with the requirements of section 254 of the Planning and Development Act 2000, as

amended, it is considered that it would be inappropriate for the Board to consider the granting of a licence for the proposed development in such circumstances.

Alternative Reasons

1. The proposed development would be sited on lands zoned 'ZO 14 Public Open Space' in the current Cork City Development Plan with the objective "To protect, retain and provide for recreational uses, open space and amenity facilities, with a presumption against developing land zoned public open space areas for alternative purposes, including public open space within housing estates". Furthermore, it is an objective of the Plan, under Section 15.21, to provide for or retain all land zoned public open space in that use. It is considered that the proposed development of telecommunications infrastructure would materially contravene the zoning objective for the site and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site of the proposed development is located on public open space adjoining established residential development within the suburban area of Mahon in Cork City. In accordance with the "*Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities*", published by the Department of the Environment and Local Government in July, 1996, it is a requirement, with regard to visual impact, that in city suburbs operators should endeavour to locate telecommunications infrastructure in industrial estates or in industrially zoned lands and that only as a last resort should free-standing masts be located in a residential area (Section 4.3). It is considered that the proposed development would constitute a highly obtrusive development in the immediate vicinity of established housing, it would have a significant adverse visual impact on adjoining residential properties, it would contribute substantially to the erosion of the visual amenities of residents at this location, and would,

therefore, conflict with the locational requirements of the Guidelines. The proposed development would, thereby, be contrary to the proper planning and sustainable development of the area.

Kevin Moore
Senior Planning Inspector

31st March 2020