



An
Bord
Pleanála

Inspector's Report

ABP-310601-21

Development	S.254 licence application for telecommunications structure
Location	Blakestown Road, Mulhuddart, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	S254W/01/21
Applicant(s)	Cignal Infrastructure Ltd..
Type of Application	Section 254 Licence.
Planning Authority Decision	Refuse Licence
Type of Appeal	First Party
Appellant(s)	Cignal Infrastructure Ltd.
Observer(s)	No Observers.
Date of Site Inspection	18 th November 2021.
Inspector	Elaine Sullivan

1.0 Site Location and Description

- 1.1. The subject site is located on Blakestown Road approximately 60m to the south-west of Mulhuddart Village. It is located on a grass verge adjoining the public footpath on the southern side of the junction with Blakestown Road and Village Heights.
- 1.2. The area around the site is a mix of open space, residential and commercial development. Directly to the east and behind the site, is a vacant piece of land that appears to be heavily overgrown with thick boundary planting along Blakestown Road and Village Heights. Directly adjoining this site to the south is a detached house set back from the road. Further east is the small residential development of Village Heights which is at a slightly higher level than the subject site. To the west of the site and on the opposite side of the road is an area of green open space adjoining a 3 storey commercial building. To the north of the site is Mulhuddart Village.
- 1.3. There are currently two road signs mounted on poles located in close proximity to the subject site with a third directional sign to Village Heights close to the junction. There are two infrastructure poles supporting overhead cables on either side of the Village Heights junction. On the opposite side of the road there are two road signs and street lighting fixed to a pole.

2.0 Proposed Development

- 2.1. The applicant is applying for a licence to the erection and operation of an infrastructure pole from February 2021 to February 2026. The development proposal is for the installation of an 18m freestanding galvanised pole with a diameter of 324mm to 402mm and with internal cables. At a height above 13.1m an antenna would be fixed to the pole and would be shrouded in a sheath to match the pole. A 300mm dish would be fixed to the pole at a height of 13m if no fibre infrastructure was available in the area.
- 2.2. A ground mounted cabinet with a footprint of 0.92m² and a height of 1.649m would be installed beside the pole, (c. 0.4m to the north), and would be painted green.

3.0 Planning Authority Decision

3.1. Decision

The PA decided to refuse permission for one reason.

1. Having regard to the nature and height of the proposed communication infrastructure, the residential zoning for the site and its proximity to existing residential properties, it is considered that the proposed mast will damage the visual and residential amenity of the area and would be contrary to the objectives of the Fingal County Development Plan 2017-2023 in respect of telecommunications antennae and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer dated the 24th May 2021 informed the decision of the PA and includes the following:

- The subject site is zoned 'RS', Residential. Telecommunications structures are not specifically listed as 'Permitted in Principle' or 'Not Permitted' and as such the proposal will be assessed in terms of its contribution to the vision for the RS zoning.
- It is accepted that the mast will improve mobile and wireless broadband service to an identified blackspot it must be balanced against the impact on the visual and residential amenity of the area.
- A number of other locations were considered and discounted.
- There are currently three information signs mounted on poles close to the subject site. A fourth structure would contribute to visual clutter and by virtue of its height would be visually obtrusive.

3.2.2. Other Technical Reports

- Transportation Planning – No objection subject to conditions.

3.3. **Prescribed Bodies**

Irish Water – No objections.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

None.

5.0 **Policy Context**

5.1. **Fingal County Development Plan 2017-2023**

Section 7.4 – Information and Communications Technologies

Objective IT01 - Promote and facilitate the sustainable delivery of a high-quality ICT infrastructure network throughout the County taking account of the need to protect the countryside and the urban environment together with seeking to achieve balanced social and economic development.

Objective IT07 - Require best practice in siting and design in relation to the erection of communication antennae.

Objective IT08 - Secure a high quality of design of masts, towers and antennae and other such infrastructure in the interests of visual amenity and the protection of sensitive landscapes, subject to radio and engineering parameters.

Chapter 12 – Development Management Standards

DMS143 - Require the co-location of antennae on existing support structures and where this is not feasible require documentary evidence as to the non-availability of this option in proposals for new structures.

DMS144 - Encourage the location of telecommunications based services at appropriate locations within the County, subject to environmental considerations and

avoid the location of structures in fragile landscapes, in nature conservation areas, in highly sensitive landscapes and where views are to be preserved.

DMS145 - Require the following information with respect to telecommunications structures at application stage:

- Demonstrate compliance with Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities issued by the Department of the Environment in July 1996 and / or to any subsequent amendments, Code of Practice on Sharing of Radio Sites issued by the Commission for Communications Regulation and to such other publications and material as maybe relevant in the circumstances.
- Demonstrate the significance of the proposed development as part of a national telecommunications network.
- Indicate on a map the location of all existing telecommunications structures (whether operated by the applicant or a competing company) within a 1km radius of the proposed site.
- Where sharing is not proposed, submit documentary evidence clearly stating the reasons why it is not feasible to share existing facilities bearing in mind the Code of Practice on Sharing of Radio Sites issued by the Commission for Communications Regulation.
- Demonstrate to what degree there is an impact on public safety, landscape, vistas and ecology.
- Identify any mitigation measure.

5.2. National Guidance

5.2.1. National Planning Framework – Project Ireland 2040

Objective 24 – ‘Support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who live and work in rural areas.’

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

The guidelines aim to provide a modern mobile telephone system as part of national development infrastructure, whilst minimising environmental impact. Amongst other things, the Guidelines advocate sharing of installations to reduce visual impact on the landscape.

4.3 – Visual Impact - The guidelines note that visual impact is one of the more important considerations which have to be taken into account and also that some masts will remain quite noticeable in spite of the best precautions.

4.5 – Sharing Facilities and Clustering – Applicants will be encouraged to share facilities and to allow clustering of services and will have to satisfy the Planning Authority that they have made a reasonable effort to share.

5.2.3. **DoECLG Circular Letter PL07/12**

This Circular was issued to Planning Authorities in 2012 and updated some of the sections of the above Guidelines including ceasing the practice of limiting the life of the permission by attaching a planning condition.

It also reiterates the advice in the 1996 Guidelines that planning authorities should not determine planning applications on health grounds and states that, *‘Planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process’*.

5.3. **Natural Heritage Designations**

No designations apply to the appeal site.

5.4. EIA Screening

- 5.4.1. An Environmental Impact Assessment Screening report was not submitted with the application. The proposed development is not listed in either Part 1 or Part 2 of Schedule 5, Planning and Development Regulations 2001 (as amended), which sets out the types and thresholds of development that requires a mandatory EIA. The proposal has also been assessed against the criteria outlined in Schedule 7 of the Planning and Development Regulations 2001 (as amended). and the provisions of Article 109, (3) of the Regulations. do not apply to the site and it has and does not warrant an EIA based on the criteria listed.
- 5.4.2. Under the provisions of Article 109, (3) of the Regulations, it is noted that the site is not located within a European site, is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site as discussed below.
- 5.4.3. The proposed development is minor in nature and scale and not require any significant ground works or construction. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case. (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- Eir are updating the network in Dublin to provide customers with good quality voice and high-speed data services. The existing Eir coverage in the area suffers from a lack of dominance and the new site will improve coverage for the many residential and commercial services in the area.
- The Comreg 'Site Viewer' map shows that there is a notable absence of telecommunications infrastructure in the vicinity of the subject site.

Telecommunications traffic through urban/commercial areas require more capacity and more infrastructure given the smaller spatial footprint and higher development densities with higher volumes of radio traffic.

- The Comreg 'Coverage' map demonstrates that the areas to the north, east, south and southwest of the site require additional infrastructure. If the proposed infrastructure is granted there would be a substantial increase in coverage service levels in the area.
- Sites in close proximity to the subject site and with existing infrastructure were considered as alternatives. None of these sites were located within the required search ring, (i.e. the area within which a telecommunications service support structure should be located to meet engineering requirements to improve service, taking into account factors including topography and the demographics of the service area), which was identified as having a diameter of 250m in this instance.
- Established sites near the subject area were discounted as Eir is already positioned on two of the sites and additional equipment at either location would not address the service shortfall and the sites were significantly outside of the search ring and would therefore not improve service.
- According to Eir, a height of 18m is required in Blakestown Road in order to provide the required coverage and to clear local obstacles that would cause network interference.
- A Visual Impact Assessment was prepared for the development and includes 10 no. reference points within a 300m radius. It was concluded that the whilst the pole will be visible from close proximity it is not considered that the visual impact of same would be detrimental to the visual amenities of the area.
- If the PA require that the pole and cabinet be set further back from the road to accommodate the cycle route shown on the Development Plan maps, this can be accommodated.

6.2. Planning Authority Response

- A response from the PA was received on the 23rd July 2021. The PA had no further comment to make on the appeal.

6.3. Observations

- No observations.

7.0 Assessment

- Legislative Context
- Principle of Development
- Justification for Development
- Impact of Development
- Appropriate Assessment

7.1. Legislative Context

7.1.1. Legislative Context 7.2.1. Section 254(1)(ee) of the Planning & Development Act, 2000 (as amended), states that a person shall not erect, construct, place or maintain overground electronic communications infrastructure and any associated physical infrastructure on, under, over or along a public road save in accordance with a licence. Section 254(6)(a) states that a person may appeal to the Board in relation to the refusal of a licence. Section 254(5) states that, in considering an application for a licence, the planning authority, or the Board on appeal, shall have regard to:

- (a) The proper planning and sustainable development of the area,
- (b) Any relevant provisions of the development plan, or a local area plan,
- (c) The number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and
- (d) The convenience and safety of road users including pedestrians.

The applicant is applying for a 5-year licence.

7.2. Principle of Development

- 7.2.1. The subject site is located on a grassed area adjoining the public footpath. Development Plan maps shown this area as zoned 'RS', 'Residential'. The RS zoning seeks to 'Provide for residential development and protect and improve residential amenity'. The vision for the RS zoning objective is to 'Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity'. Telecommunications infrastructure is not specifically listed as 'permitted in principle' under the RS zoning. However, a 'utility installation' is permitted in principle, which could also cover the proposed development. I am satisfied that the proposed development can be considered under the land use category of 'utility installation'.
- 7.2.2. I note that the Development Plan states that *'Uses which are neither 'Permitted in Principle' nor 'Not Permitted' will be assessed in terms of their contribution towards the achievement of the Zoning Objective and Vision and their compliance and consistency with the policies and objectives of the Development Plan'*.
- 7.2.3. Development Plan maps also show an indicative Pedestrian / Cycle route along Blakestown Road and adjacent to the subject site.

7.3. Justification for Development

- 7.3.1. The applicant is a European Telecommunications infrastructure provider, which specifically facilitates co-location to the communications sector in Ireland and Europe. It is planned to add new developments to support the ongoing infrastructural requirements of the telecommunications industry and to facilitate the provision of broadband in 'black spot' areas and to facilitate higher data transmission speeds in urban areas. The area is a known blackspot for mobile and wireless broadband. As part of Eir's continuing rollout of their 3G and 4 G network a site is required in the area of Mulhuddart to improve service to the surrounding area. In particular, the area around the Old Navan Road, Mulhuddart Wood, Huntstown, Blakestown Road,

Saddlers Grove and Church Road currently experience a reduced quality of service and capacity.

7.3.2. A number alternative sites were examined by the applicant. These are listed in the application along with the reasons why they were discounted. The subject site was chosen as it fulfilled a number of criteria including the following:

- It is within the search ring,
- There is adequate space for the pole and cabinet,
- The pole will blend in with existing street furniture,
- There is fibre located close to this location to ensure connectivity into the network,
- The location will not interfere with existing services and
- The location is not directly visible from residential properties.

7.3.3. I have reviewed the ComReg coverage maps for Mulhuddart and the surrounding area. It is clear from the maps that the Eir service for 3G and 4G in Mulhuddart and the areas surrounding it could be improved. Eir's 4G coverage is categorised as 'Fair' on the maps which, is defined by ComReg's as, *'Fast and reliable data speeds may be attained, but marginal data with drop-outs is possible at weaker signal levels'*. Some of the other providers can provide better service in these areas but none of the maps show that a 'Very Good' service is currently provided by any of the operators. I note that the areas that would benefit from an improved 3G and 4G service include the heavily populated residential areas to the north and south....at Hartstown, Huntstown and Ladyswell Road.

7.3.4. Having reviewed the information contained within the application and the existing coverage information available on the ComReg website, I am satisfied that alternative sites had been considered and that the proposed development is justified and would help to improve the existing 3G and 4G service to the surrounding area.

7.4. Impact of Development

7.4.1. The PA's reason for refusal states that the proposed development will damage the visual and residential amenity of the area and would be contrary to the Development

Plan objectives in respect of telecommunications antennae. In terms of existing residential existing, I am satisfied that the proposal would not have a significant impact on the surrounding residential development.

- 7.4.2. Glenview House is the closest house to the subject site and is a detached dwelling located directly to the south east of the site. This house is set back from the road and is at a slightly higher level than the adjoining footpath. The front corner of the house is approximately 24m from the subject site and there is an overgrown and vacant site between the house and the site. Whilst the pole would be visible from the external areas to the front of the house, the house itself is positioned at an angle and would not face directly onto the pole. The existing planting along the boundary of the adjoining vacant site would also provide some screening to the lower level of the pole.
- 7.4.3. Within the Village Heights development, the closest house to the site is No. 1 and is approximately 50m away from the site. It does not face onto or directly overlook the site. The upper level of the pole would be visible from the access road to the development and also from the rear of No's 12 to 19, which form a terrace at the top of the hill on Village Heights. None of the surrounding residential development overlook or directly face onto the subject site. I am satisfied that by virtue of the separation distances between the existing houses, their orientation and the existing topography and external environment that there would not be any significant negative impact on the existing residential amenity of adjoining property.
- 7.4.4. The impact of the proposal would be most pronounced from the public realm within the context of the subject site. A Visual Impact Assessment was prepared and submitted with the proposed development and examined the proposal from 10 different points within a 300m radius. Of the sites examined, the proposed development was only visible from the three locations in closest proximity, within the 100m radius.
- 7.4.5. The proposed development would be most visible from Blakestown Road on the approach to Mullhuddart Village travelling north and from the village facing south along Blakestown Road. Although the pole would be clearly visible and physically prominent within the streetscape by virtue of its height, the monopole design is slender in nature and similar to standard utility installations found in urban

environments. I note that the subject site is on the outskirts of Mulhuddart Village and is not part of a sensitive landscape or subject to any special protections.

- 7.4.6. Whilst the pole is significant in height, I am satisfied that it would not result in any notable reduction in the visual amenity of the area given its location adjacent to a public road and on the outskirts of an urban village where similar type infrastructure is not uncommon.
- 7.4.7. I am satisfied that the proposal has been prepared in accordance with objective DMS145 of the Fingal Development Plan as the applicant has demonstrated its significance as part of a wider telecommunications network, has examined the feasibility of alternative sites and has demonstrated the impact on the surrounding landscape and vistas.

7.5. Appropriate Assessment

- 7.5.1. A Stage 1 Screening report does not accompany the application. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is screening.
- 7.5.2. The proposed development is for an 18m monopole with pole mounted telecommunications infrastructure and supporting ground mounted infrastructure. The development site is adjacent to a public road on the outskirts of an urban village and does not require any ground works, new access roads or water connections.
- 7.5.3. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess

whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

- 7.5.4. Having reviewed the documents and submissions and having regard to the nature and scale of the proposed development and the location of the site in a developed utility compound with no direct or indirect connection via a pathway to a European site, I am satisfied that no Appropriate Assessment issues arise, and it is not considered that the 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 that a licence be granted subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. Having regard to the provisions of section 254 of the Planning & Development Act, 2000 (as amended), national, regional and local policy objectives as set out in the Fingal County Development Plan 2017-2023, Objectives IT01 and IT07, and the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996) as updated by Circular Letter PL 07/12, it is considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the relevant provisions of the Fingal County Development Plan 2017-2023, would not be seriously injurious to the amenities of the area or residential amenity in the vicinity, would not interfere with the convenience and safety of road users including pedestrians and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The licence shall be valid for a period of five years from the date of this Order. The telecommunications structure and related ancillary structures
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	<p>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.</p> <p>Reason: To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the specified period.</p>
2.	<p>The antenna type and mounting configuration shall be in accordance with the details submitted with this application for a licence, and 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.</p> <p>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</p>
3.	<p>Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.</p> <p>Reason: In the interest of public health and to prevent flooding.</p>
4.	<p>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.</p> <p>Reason: In the interest of public safety</p>
5.	<p>Details of the proposed colour scheme for the pole, antennas, equipment containers and any perimeter fencing shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>

6.	<p>Landscaping of the site shall be carried out in accordance with a landscaping scheme, details of which shall be submitted to and agreed in writing with planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
7.	<p>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.</p> <p>Reason: In the interest of the visual amenities of the area.</p>

Elaine Sullivan
Planning Inspector

19th November 2021