



An
Bord
Pleanála

Inspector's Report ABP 311298-21.

Development	Installation of over ground electronic communications infrastructure for eighteen metres high telecommunications street-work solution.
Location	Gort na Bro, Fort Lorenzo (Western Distributor Road, (WDR) Galway.
Planning Authority	Galway City Council
P. A. Reg. Ref.	License 2021 03
Applicant	Cignal Infrastructure Ltd
Type of Application	Section 254 License
Decision	Refuse License
Type of Appeal	First Party
Appellant	Cignal Infrastructure Ltd
Date of Site Inspection	February, 2022.
Inspector	Jane Dennehy.

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1.0 Site Location and Proposed Development

- 1.1. The site for the proposed development is on the grass verge adjacent to the public footpath in front of a row of trees, on the northern side of the Western Distributor Road, (WDR) the main distributor road in the western suburbs at Knocknacarra. The location is to the south of Grangemore residential development. There is an incline along the road in that it rises from the Bothair Stiofain roundabout towards the Gort No Bro roundabout at the north eastern end.
- 1.2. The same location for which a Section 254 License was refused for the two prior proposals (See section 4 below) has been selected for the current proposal. However, the design and specification for the structure subject of the current proposal to be erected is different. An eighteen metres high free standing street pole carrying on alpha 3.7 m shrouded antenna at azimuths 230, 120, 10 and, one 300 mm dish (to be included fibre infrastructure is unavailable) and a 2.3 m x 1.2 m x 0.994m integrated cabinet.
- 1.3. The application is accompanied by visual impact assessment with photomontages, a planning statement which includes a detailed case for technical justification for the current proposal based on coverage requirements with detail of alternative locations considered and details of other successful license applications at other urban areas in Galway and elsewhere in the country.

2.0 Planning Authority Decision

2.1. Decision

- 2.1.1. By order dated, 10th May, 2021, the planning authority decided to refuse permission based on two reasons which are similar to the reasons attached to the refusal for two prior applications for a license. (See Planning History, section 4 below.)
- 2.1.2. According to Reason1 the proposed development at a location within 'Outer Suburbs' as provided for in the CDP would seriously injure the residential amenities and depreciate value of residential properties which is contrary to Policy 2.5 – Outer Suburbs which provides that development should not adversely affect the character and residential amenities of the neighbourhood.

- 2.1.3. According to Reason 2 the proposed structure, in view of the location on the major access route and gateway to the outer suburbs of Knocknacarra, and due to height and visual prominence would have negative visual impact and visual intrusiveness in the public realm. As a result, it would be contrary to policy 9.13 of the CDP and to 'Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities' (1996 and 2012)

2.2. Planning Authority Reports

- 2.2.1. According to the Recreation and Amenity Department's report further information is required to facilitate consideration of the proposal with regard to underground works, and need for assessment of impact on the health, roots and stability of the adjacent trees, and as to mitigation of impact on the trees, (in consultation with the department) if required.
- 2.2.2. According to the planning officer's report the current proposal for an eighteen metres high structure would be visually intrusive, notwithstanding the presence of the trees and streetlighting columns and the reasoning for refusal of the license for the two prior fifteen metres' high structures applies to the current proposal would be an undesirable feature on the key entrance gateway to the outer suburbs.

3.0 Planning History

- 3.1.1. There have been two prior unsuccessful applications to the planning authority for a license for fifteen metres high monopole telecommunications street work solutions under section 254 of the Act on grounds of: (1) serious injury to residential amenities of the outer suburbs (within a residential neighbourhood) having regard to policy 2.5 and Section 9.13 of the CDP regarding siting of installations in the vicinity of residential areas and visual intrusiveness in the public realm at the location on the major access route and gateway to the outer suburbs of Knocknacarra, contrary to policy 9.13 of the CDP and 'Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities' (1996 and 2012) (LIC /18/44 and LIC/19/52 refer.)

4.0 Policy Context

4.1. Development Plan

The operative development plan is the Galway City Development Plan, 2017-2023. (CDP) The site location is within the outer suburban neighbourhood of Knocknacarra and subject to the zoning objective “R” (Residential): *“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’* and as provided for under section 2.5 of the CDP.

Section 9.13 provides support for effective telecommunications infrastructure and services at a high quality which is balanced against the need for protection of visual and residential amenities and which is consistent with the statutory guidance: *Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities*, 1996 which was updated in a Circular in 2012. (PL07/12) according to which:

“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”.

4.2. Strategic Guidance.

Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities, 1996 (1996 Guidelines) which was updated in 2012 in a Circular. (PL07/12)

5.0 The Appeal

5.1. Grounds of Appeal

5.1.1. An appeal was received from CMC consultants on behalf of the applicant on 3rd September, 2021 in which it is stated that in spite of efforts to deliver broadband services on roadsides to address blackspots in the city's network the planning authority repeatedly refuses license applications. According to the appeal:

- The current proposal has an altered design to address the reasons for refusal for the two prior unsuccessful proposals for the same site location. The planning authority's assessment in the planning officer report is poor and reference is made to the Development management Guidelines (the guidelines) in this regard and with regard to avoidance, in preparation of development plans of blanket bans on particular classes of development in that a planning authority should not be relieved of responsibility for consideration of proposals on merit.
- The decision to refuse permission is not consistent with national policy for the delivery of high-speed telecommunications services which is supported in Chapter 5 of the CDP in which there are references to enhancements of residents' lives, through delivery of infrastructure, without adverse impact on the public realm. The planning authority has failed to take a balanced approach to the delivery of this infrastructure and its impact on the receiving environment whereas the CDP in Policy 9.13 demonstrates awareness of the benefits of such infrastructure with a balanced approach. In the appeal the policies, recommendations and guidance in this regard in Chapter 9 of the CDP and "*Telecommunications Infrastructure – Guidelines for Planning Authorities*," 1996 are discussed and elaborated on in detail with reference to the proposed development in particular with regard to the allowing for consideration, only as a last resort, of locations, already developed for utilities in residential areas and beside schools.
- According to the guidelines it needs to be clearly shown that a policy is breached in a significant way in refusing planning permission. It is not shown in the planning officer report that the proposed development is in conflict with

CDP policy for 'Outer Suburbs'. It is not explained that the proposal seriously injurious to residential amenity or would depreciate property value. The claims are not substantiated. Section 9.13 does support, in the last resort telecoms infrastructure deployment of street solutions proximate to residential development where suitable.

- Circular 07/12 encourages cessation of distance requirements and they can inadvertently have major impact on the role out of viable and effective telecommunications infrastructures which is in conflict with the CDP. Such infrastructure is core to the concept of a sustainable neighbourhood such as the city's 'outer suburbs' in which reasonable balance must be struck between protection of amenity and development. Reference is made to remarks of the inspector in respect of the appeal against refusal of a license at Cimin Mor. (PL 308661 refers.) The planning authority has failed to ensure a balanced approach to the provision of telecommunications service across the city in that the negative decision-making position is detrimental to social and economic progress.
- The proposal is not in conflict with section 2.5 (Outer Suburbs) of the CDP because it is not seriously injurious to residential amenity or the character of the area. The pole is 18 m x 0.4 m, shrouded, adjacent to and screened by the mature trees and streetlights on a main road adjoined by commercial development and housing estates and it has no visual impact on views from the houses. The claim as to potential precedent in the planning officer report has no foundation, whereas the decision on the proposal at Cimin Mor (following appeal) could have been referred to for precedent.
- It has been demonstrated in the application that no alternative sites within the search ring to address the blackspot are suitable and available
- The site location has already been developed for utilities.
- The structure is a pole, not a lattice mast and is specifically designed for deployment in sensitive areas and it (including its antennas and cables) is fully screened and is 'state of the art' in design. The cabinet incorporated into the base of the slimline pole ameliorates the overall effect of the eighteen metres height as opposed to the previously proposed fifteen metres height in

that a separate cabinet structure is not required. CCTV cameras, arguably not a utility, have been installed by the local authority at similar heights by the local authority without issue. There are no height limits in the 1996 guidelines or planning authority policies.

- CCTC cameras have been installed at similar heights by the local authority and, arguably are not a utilities' use. There are no height limits in the 1996 guidelines or planning authority policies.
- There is no evidence in the submitted photomontages (within the 300 metres Zone of Visual influence') of visually intrusiveness in the public realm as asserted by the planning authority. In the twelve vantage points the pole is visible in three from the road and partially visible in another two. Views are screened, partially screened and oblique from houses. There is no direct view from any house. There is no impact outside the visual envelope where the views are not overly impactful in the public realm, are not terminating and, there are existing visual elements such as poles trees and buildings. The height at eighteen metres is acknowledged but it is limited in impact in the surrounding context. The effect is very limited owing to the ameliorative effect of the surrounding environment. The visual impact is slight in that there is no noticeable change in the environment and is neutral in terms of effect on the quality of the environment.
- The submission is accompanied by an arboriculture assessment in which the arborist has also, provided an assessment of impact on the trees and mitigation proposals having regard to the recommendations of the Recreation and Amenity Department, As shown in the arborist report, the applicant will replace trees to be removed with saplings and will protect existing trees during construction. In addition, details of works showing no impact on roots for underground works are shown in the attached Drawing GP 1877-301.

5.2. Planning Authority Response

There is no submission from the planning authority on file.

6.0 Assessment

6.1. Given the recommendations in the Programme for Government's mobile phone and broadband Task Force, the proposed location on public land in the verge adjacent to a public road, it is agreed that it is appropriate for the proposal to be considered in accordance with the provisions for consideration of a License in accordance with section 254 of the Planning and Development Act, 2000 as amended. The previously determined prior applications for a Section 254 License within the administrative area of Galway City Council and administrative areas of other local authorities referred to in the appeal are of not in this regard.

6.2. The issues central to the determination of a decision can be considered under the following subheadings:

Justification for the proposed development.

Visual and Residential amenities.

Tree Protection.

Environmental Impact Assessment Screening.

Appropriate Assessment Screening.

6.3. Justification for the proposed development

6.3.1. The need to provide an installation for coverage to fill a gap in the local network in the western suburbs has been satisfactorily explained in the applicant's submissions. The guidance that selection of locations in residential areas and adjacent to schools is discouraged, and should only be considered, as a last resort, according to the statutory guidance: "*Telecommunications Antennae and Support Structures Guidelines for Planning Authorities*", 1996 has been comprehensively addressed. It has been submitted that the consideration of alternative site locations demonstrated lack of suitability mainly as to delivery of the necessary technical requirements and coverage within the search ring for the area which is a 'blackspot' in the local catchment.

6.4. Visual and Residential Amenities.

6.4.1. The receiving environment is the western suburbs, just east of the area designated as the Knocknacarra District Centre in which lands are subject to grants of

permission or undetermined applications for commercial retail or related development. Residential development in housing estates is on the north and south sides of the WDR in the vicinity of the selected site. The planning officer has described the location as, 'gateway' to the western suburbs, close to the eastern end of the WDR.

- 6.4.2. It is considered that the selected location is not unduly sensitive or particularly inappropriate for communications infrastructure installations such as that which is proposed, especially, in that at present, in urban areas at roadside locations, the pole type support structures have long replaced prior lattice support structures.
- 6.4.3. The location is on the verge on the north side of the public footpath and cycle path along the WDR a main distributor road, in front of the boundary adjoining public open space in Grangemore a residential estate of detached houses. This selected location is opposite, Garrai de Brun a residential estate on the south side of the WDR. However the position for the installation within the public realm and not within any residential estates or directly to the side of front of any residential property. Furthermore, there are no landscape character or sensitivity issues and concerns such as designated protected landscapes, historic urban areas or structures of conservation merit or designations, view corridors, views, or otherwise.
- 6.4.4. On approach, along the WDR from the Bothair Stiofain roundabout, from the west towards the east, the proposed pole, due to its height likely to be somewhat conspicuous in views to ongoing motorists, cyclists and pedestrians relative to the public lighting. Nevertheless, given the slimline nature of the proposed pole notwithstanding the eighteen metres height, with its integrated cabinet at the base, the existing public lighting poles and other utilities typically installed to the side of urban and suburban roads the proposed development is not overly visually intrusive or incompatible with the receiving environment. The backdrop of the mature trees, (albeit deciduous), would effectively screen the views from within the adjoining residential estate, Grangemore in which the immediately adjacent space is public open space as opposed to the plots of individual dwellings. The structure would be visible from the rear upper floors of the two storey houses on the far, south side of the WDR and these views would be screened by trees located along both sides of the road.

6.4.5. As such given the urban nature of the area and the location within the public realm at the side of a distributor road, there should a predisposition towards consideration of development of the nature proposed in that it is not established that the receiving environment does not have capacity to accept it. Furthermore, it is agreed with the applicant's agent that communications infrastructure and other utilities should be regarded as coming within associated support development within a residential area and is functional to residential amenities along with all services and facilities.

6.4.6. **Tree Protection.**

6.4.7. Some subsurface works are required for installation of the proposed pole with its integrated equipment container at its base in respect of which the applicant's agent provided proposals prepared by its arboriculture consultation in response to issues raised in the Recreation and Amenity Department's report on the application. The proposals including the mitigation details are considered appropriate and reasonable. It is recommended that a condition be indicated for the development be implemented in accordance with the Drawing GP 1877-301, in consultation with the Recreation and Amenity Department and that a standard condition for tree protection measures be included if permission is granted.

6.1. **Environmental Impact Assessment Screening.**

6.1.1. Having regard to the nature of the proposed development and its location in a serviced inner suburban area in the city, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.2. **Appropriate Assessment Screening.**

6.3. Having regard to the location and to the nature of the proposed development in a serviced inner suburban area in the city, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.0 Recommendation

- 7.1. In view of the foregoing, it is recommended that the planning authority decision be overturned and that a License be Granted in accordance with the provisions of Section 254 of the Planning and Development Act, 2000 as amended based on the following Reasons and Considerations and Conditions:

8.0 Reasons and Considerations

Having regard to the provisions of section 254 of the Planning and Development Act, 2000, as amended, to national, regional and local policy objectives, as represented in the Galway City Development Plan, 2017-2023, to 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, and, to the character and pattern of development in western suburbs of Galway City, it is considered that subject to compliance with the conditions set out below, the proposed development would not be visually intrusive, seriously injurious to the residential amenities of properties in the vicinity and, would be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars lodged with An Bord Pleanala on 3rde September, 2021 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. The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with the application.

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.

3. 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.

4. Details of the proposed colour scheme for the street pole, antennas and operator cabinet 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.

5. 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.

6. Prior to commencement of development, all trees, shall be enclosed within the root and crown spread by tree protective fencing and shall be maintained in place in accordance with the details submitted in the Arboriculture Assessment and Drawing GP 1877-301, submitted to An Bord Pleanala on 9th September, 2021 through the construction period during which no works or storage shall take place within the enclosed space in consultation with the planning authority.

Jane Dennehy
Senior Planning Inspector
25th February, 2022.