



An
Bord
Pleanála

Inspector's Report ABP 312014-21.

Development	Telecommunications Mast and Cabinet.
Location	Fermoyle, Calry, Sligo.
Planning Authority	Sligo County Council
P. A. Reg. Ref.	FP 355.
Applicant	Signal Infrastructure Ltd.
Type of Application	License – section 254.
Decision	Refuse License
Type of Appeal	First Party x Refusal
Appellant	Signal Infrastructure Ltd.
Date of Inspection	21 st June, 2022
Inspector	Jane Dennehy

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. Development Plan.....	6
6.0 The Appeal	7
6.1. Grounds of Appeal	7
6.2. Planning Authority Response	9
7.0 Assessment.....	9
8.0 Recommendation.....	12
10.0 Reasons and Considerations	13
11.0 Conditions	

1.0 Site Location and Description

- 1.1. The proposed location for the communications infrastructure subject of the application for a Section 254 License is at Calry which is on the Sligo to Manorhamilton Regional Route (R278) to the east of Sligo. The location is south side of the road the level of which falls slightly from the west to the east. It is adjacent to a telegraph pole and is to the front of stone walling along roadside boundary to the rear of which there are mature trees. There are entrances to residential properties directly off the road frontage to both the east and west at distances of circa twenty metres from the site location. There is a church and community building and some residential properties within the village. A national school is a short distance to the north off with access from a minor county road. The school is circa 250 metres, across fields opposite the proposed location for the communications infrastructure.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for installation of eighteen metres high, 3600 mm slimline, galvanised steel pole supporting a 3.2 metres diam. antenna, two GPS domes on brackets and a 300 mm diam. dish at a lower level. Also included is a green coloured equipment cabinet 1900mm x 800 mm x 1700 mm in height.
- 2.2. A Visual Impact Assessment report, and detail of three 'sample' section 254 licences granted for similar development on public footpaths at Dublin City Council, South Dublin County Council and Carlow County Council are also included with the application.
- 2.3. In an accompanying detailed written submission, it is stated that area is lowly populated with low levels of traffic and that it is intended to provide facilities for two operators at the facility. It is stated that the coverage in the area which is fair to fringe and that blackspots with back haul connection to the designated Broadband Connection Point (BCP0) at Calry under the National Broadband Plan. It would be complemented by the proposed development and that three existing sites have been discounted as unsuitable due to remote locations beyond the search ring and proximity to schools and poor visibility.

- 2.4. In the application submission reference is made to location on the public road as opposed to private lands and to the appropriateness of the application of the provisions of Section 254 of the Planning and Development Act as amended (The Act) and its distinction from Class 31 of the Planning and Development Regulations, 2001 as amended (The Regulations)
- 2.5. Three alternative sites were assessed for co-location and rejected as unsuitable on grounds of being outside the search ring. Two alternative sites for the proposed structure were rejected one being close to the school and the other at a narrow footpath with the selected site being deemed suitable for providing coverage within a black spot and allowing for backhaul connection to the BCP resulting in good coverage.
- 2.6. It is stated that the accompanying VIA covering six vantage points in a visual envelope within 100 to 150 metres were assessed within it having been determined that there is no scope for sight from more distant locations. From locations 1 and 2 the visual impact is slight to moderate and moderate and stated to be reasonable within the receiving environment owing to the slimline nature of the pole and backdrop of the trees. Reference is made to observations of an Inspector in his report of similar development at a location within Galway City and it is submitted that the current proposal is similar. (ABP 306440 refers.)

3.0 Planning Authority Decision

3.1. Decision

By order dated, 20th July, 2021, the planning authority decided to refuse permission based on the following two reasons:

“It is the policy of the planning authority as stated within the Sligo County Development Plan, 2017-2023 to protect the physical landscape, visual and scenic character of County Sligo and seek to preserve the County’s landscape character (P-LCAP-1) to discourage any developments that would be detrimental to the unique visual character of the designated Visually Vulnerable Areas (PL-CAP{-2) to protect areas of significant landscape

importance from the visual intrusion of large scale telecommunications infrastructure (P-TRel-1) and to ensure that telecommunications infrastructure is adequately screened, integrated and /or landscaped so as to minimise any adverse visual impacts on the environment (P-TEL-2)

The proposed development given its prominent positioning and overall height, which will be visible over a wide area, including in the context of a Visually Vulnerable area would seriously injure the visual amenities of the area and be a discordant and obscure feature in the landscape.

” The proposed development is sited to the edge of a road and between two existing residential access points. Insufficient information has been submitted to demonstrate that the proposed development will not have a detrimental impact on the convenience and safety of road users including pedestrians.”

3.2. Planning Authority Reports

- 3.2.1. The planning officer observes that the location for the development is prominent and on a “raised section of the road” on approach from both directions and that the structure would be visible over a long distance owing to the height and that this is indicative in the VIA. It is stated that the development would be more visible from the view from the east at a central position and similar distance to the view from VRP3 within the VIA. According to the planning officer the trees to the south would provide less screening with the development readable in the context of the ridgeline of the Keelogyboy mountain to the east.
- 3.2.2. The planning officer also refers to the comments of the Area Engineer and note the lack of footpaths and the area has indicated potential conflict with possible future footpath construction although there are no current plans for same. There are entrances to two residential properties, one to the west side and one to the east side according to the Area Engineer the development might affect traffic safety and obstruct sightlines.

4.0 Planning History

There is no record of a prior history for the site location.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Sligo County Development Plan, 2017-2023.
- 5.1.2. According to section 11.2.2. in which a balance between providing for the importance of communications infrastructure and protection of environmental quality and residential amenity is recognised, it is the policy under objective P- TEL -1 to protected areas of significant landscape importance from visual intrusion by communications infrastructure and under Policy P-TEL2 to ensure compliance with the Habitats Directive and adequate screening and landscaping to minimise adverse visual impacts.
- 5.1.3. According to section 13.9.4 masts are not usually permitted in designated sensitive areas, nature conservation sites or adjacent to scenic routes and Objective P-LCAP-1 provides for protection of physical landscapes, visual and scenic character and for preservation of landscape character. Applications with potential to significantly impact on landscape character especially sensitive rural landscapes, visually vulnerable areas and scenic route may be required to include Visual Impact Assessment for agreed viewpoints and methodologies. Policy L-CAP-02 provides for discouragement of development detrimental to the visual character of Visually Vulnerable Areas. The site location is not subject to any specific objective in respect of landscape sensitivity and quality, scenic routes or protected views and prospects.

5.2. Strategic Guidance.

- 5.2.1. The relevant section 28 guidance is *“Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities*, 1996 which was updated in 2012 in a Circular. (PL07/12) and with Circular PL11/2020 in which it clarified that a license is required for overground infrastructure that is otherwise exempt development.

- 5.2.2. Visual impact is a central consideration requiring great care with far to fragile of sensitive landscapes or other designated areas such as SACs, SPAs NHAs Special Protection Areas and Special Amenity areas. Locations in rural areas in forest plantations are likely to reduce the visual impact and along amenity areas of walking route and rural roads severity of impact is a consideration.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was received from David Mulcahy on behalf of the applicant on 22nd November, 2021 and it includes a site layout plan along with details of sightlines in each direction along the R278.
- 6.1.2. According to the submission the decision to refuse permission is most unreasonable and is contrary to the trend favouring critical infrastructure development.
- 6.1.3. With regard to the first reason for refusal of the license for reasons of adverse visual impact it is submitted that the application was accompanied by planning report with a visual impact assessment (VIA) and CGI images.
- The key concern of the planning authority is that of material visual impact on Visually Vulnerable Areas designated in the CDP. The impact on the six viewpoints identified in VIA lodged with the application which are within 100 – 140 metres radius of the site are slight to moderate. There are no views from a distance and tree cover absorbs the views from over 100 metres distance. However, it is to be expected that the pole would be visible in proximate locations and would not be detrimental to visual amenities of the area or public realm and tree cover as pointed out in the VIA. Reference is made to the observations of the inspector in respect of the grant of a License in Waterford as to acceptance as part of the normal streetscape and that visual impact is unavoidable but without undue adverse impact on the surrounding land uses or protected structures. (PL 309598 refers.)
 - The site not identified as in or adjacent to a sensitive location in the CDP. With regard to Policy PLCAP-1 whereby the policy for protection of landscape character and potential for significant impact on landscape character

especially in sensitive rural landscapes and visually vulnerable areas and along scenic routes, it is stated that the closest visually vulnerable areas are Deerpark Forest 470 metres to the south east and Colgagan Lough circa 600 metres to the south. The planning officer refers to the ridge line of the Keellogboy mountain circa three kilometres to the north east.

- The yellow shading for the scenic route in the landscape characterisation map of the CDP relate to the R278 east of the junction with the L3407 and L3407 itself but it does not apply to the route of the R278 to the north west of the junction. The requirement for a VIA was met as it was provided in the application.
- With regard to Policy PLCAP-2 in the CDP it is submitted that the proposal is not readily visible in the two visually vulnerable areas so it is not in conflict with the policy for discouragement of development detrimental to unique visual character of designated Visually Vulnerable areas. The tip of the structure may be visible above the trees to the south but given the slimline nature of the structure and the significant distances involved. It would be unreasonable to conclude that there is discordant or obtrusive visual impact or a material adverse impact on designated Visually Vulnerable areas.
- With regard to Policy P-TEL-1 in the CDP for protection from visual intrusiveness by large scale telecommunications infrastructure it is submitted that the proposed structure is not large scale but although tall it is slimline and similar to a street or telegraph pole. The neutral colour assimilates it into the environment.
- The references in the Planning officer report to Policy P-TEL-2 in the CDP for screening compliance with the Habitats Directive are illogical in that the reason for refusal solely relates to visual impacts.

6.1.4. With regard to the first reason for refusal of the license for reasons relating to road safety it is assumed that that the planning authority's concern is about the possibility that the proposed development would interfere with sightlines for egress from the entrances to the two properties to either side of the site. The sightline drawing included with the submission demonstrates that the existing sight lines will be unaffected by the proposed development.

6.2. **Planning Authority Response**

There is no submission from the planning authority on file.

7.0 **Assessment**

7.1. 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 section 254 of the Planning and Development Act, 2000 as amended.

7.2. The issues central to the determination of a decision having regard to the appeal are considered below under the following sub headings.

Justification for proposed installation

Visual Impact

Vehicular and Pedestrian Safety.

Policy P-TEL-2 /Habitats Directive.

Environmental Impact Assessment Screening

Appropriate Assessment Screening.

7.3. **Justification for proposed installation.**

7.3.1. The application submission includes details of alternative sites at which co-location was deemed unsuitable for the needs of the search ring for the local network and alternative sites within the search ring for the installation, one at a school entrance deemed unsuitable. It is considered that the applicant has made a satisfactory case regard to its requirements within the local network to justify favourable consideration of an installation, in principle at the subject site location.

7.3.2. The proposed installation, taking into account the backdrop of mature trees, would not give rise to undue adverse impact on residential amenities or property value and that the proposal would not be at variance with the guidance and objective within the

CDP or *Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities*, 1996 which was updated in 2012 in a Circular. (PL07/12) in this regard. It is noted from the applicant's submissions and accepted that the nearest dwelling footprint is circa seventy metres in separation distance from the site location.

- 7.3.3. It should be borne in mind that the statutory guidance was prepared and issued twenty-six years ago, in 1996, notwithstanding the supplementary Circular issued in 2012 at a time when lattice masts which are not comparable the street pole structure subject of the current proposal notwithstanding the antenna and associated equipment and ground works.

7.4. Visual Impact

- 7.4.1. The landscape is primarily undulating and of good quality and rural character with fields mainly used for grazing and with indigenous hedgerows and is relatively undisturbed. As pointed out in the documentation available in connection with the application and the appeal there are no specific objectives within the CDP as to scenic routes, views and prospects or special designations as to high quality and sensitive landscape character within the immediate environs of the site location within Calry on the R278.
- 7.4.2. The position selected within Calry is elevated allowing for increased visual prominence in views on approach from east and west along the R278 and from views elsewhere within the surrounding countryside. The alpha pole would appear higher than eighteen metres height in views from the lower lying surrounds. Undisputedly, the proposed alpha pole structure at eighteen metres, notwithstanding its slimline pole nature is of much greater height than overhead wires mounted on poles in the immediate vicinity and would be very conspicuous in views from the surrounding rural landscape.
- 7.4.3. It is considered that the significance of the visual impact for views along the R278 within the confine of the village including the six vantage points on the R278 at one hundred to one hundred fifty metres from the site location indicated in the Visual Impact Assessment can be accepted having regard to the corresponding national

and local policy objectives relating to the facilitation of communications infrastructure services and development.

- 7.4.4. However, it is agreed with the planning officer that the submitted VIA is limited inadequate for a comprehensive assessment of impact in views from the wider environs has not been conducted and made available. As pointed by the planning officer, surrounding landscape features may be vulnerable to undue adverse visual impact of significance. The planning officer notes that in west to east views from different vantage points to those within the submitted VIA within the village the alpha pole is likely to be visible and relatively dominant above the backdrop of mature trees in views within the context of the Keelogyboy mountain to the east of Calry with is designated as being visually vulnerable.
- 7.4.5. The planning officer in his report has also identified to additional views not included in the VIA within the broader environs and identifies the Deerpark Forest four hundred and seventy metres to the south east and Colgagan Lough circa six hundred metres to the south which are also designated as visually vulnerable areas in the CDP. The view of the planning officer as to deficiencies in the VIA is considered reasonable.
- 7.4.6. A comprehensive visual impact assessment applying the appropriate methodology would facilitate informed consideration of the proposed development to this end. The Board may wish to provide the applicant with an opportunity to submit a comprehensive Visual Impact Assessment, prepared by a suitably qualified professional to facilitate consideration of the proposed development in this regard prior to determination of a decision but it is noted from the appeal that the applicant appears to have considered that such an assessment is unnecessary.

7.5. Vehicular and Pedestrian Safety.

- 7.5.1. It is considered, based on review of the site layout plan and visual inspection that no issues of concern with arise as to hazard for vehicular and pedestrian circulation, including access and egress from entrances to private properties to the west and east side and as to endangerment of public safety. There are no specific objectives with the CDP for footpath construction which would conflict with the installation's pole or equipment container.

7.6. Policy P-TEL-2 and Habitats Directive.

- 7.6.1. With regard to the comments in relation to Policy P-TEL-2 in the CDP and the Habitats Directive within the appeal with reference to the planning officer report, it is confirmed that the site location is not within or near any European sites and that no issues of potential concern would arise having regard to the scale and nature of the development and to direct or indirect source pathway links. There are no relevant issues of concern in connection with the proposed development in this regard.

7.7. Environmental Impact Assessment Screening.

- 7.7.1. 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.

7.8. Appropriate Assessment Screening

- 7.9. 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.

8.0 Recommendation

In view of the foregoing, it is recommended that the planning authority decision to refuse to Grant a Section 254 License be overturned based on the Reasons and Considerations and subject to the conditions which follow.

9.0 Reasons and Considerations

The Board is not satisfied, based on the documentation available in connection with the application and the appeal, that the proposed alpha street pole, antennas in conjunction with the antennas and associated equipment, and mounted on it, given its height and the selected elevated location and would not be visually conspicuous and obtrusive within the context of the surrounding areas which have designated within the Sligo County Development Plan, 2017-2023 as “visually vulnerable”, resulting in serious injury to the unique visual character and amenities of designated visually Vulnerable Areas the within the surrounding landscape. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Jane Dennehy
Senior Planning Inspector
28th June, 2022