



An
Bord
Pleanála

Inspector's Report ABP-312269-21

Development	Proposed 15m high Alpha 2.0 Streetpole Solution with antennas and ground equipment.
Location	Public grass verge along Dunmore Road, Waterford
Planning Authority	Waterford City & County Council
Planning Authority Reg. Ref.	21/828
Applicant(s)	Cignal Infrastructure Ltd
Type of Application	Section 254 licence
Planning Authority Decision	Refusal
Type of Appeal	First Party -v- Decision
Appellant(s)	Cignal Infrastructure Ltd
Observer(s)	None
Date of Site Inspection	8 th November 2022
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located 3.2km to the south-east of Reginald's Tower in Waterford city centre. This site lies on the Dunmore Road (R683) on the approach to the roundabout with Grantstown Park and Ballinakill Shopping Centre. It is situated in a grass verge beside the outward bound lane of Dunmore Road, which is accompanied by a cycle lane and, on the far side of the grass verge, a footway. (The inbound lane is accompanied by a bus lane).
- 1.2. To the north-west of the site off Dunmore Road lies a petrol filling station. To the north-east of the site on elevated land lies the residential cul-de-sac known as "The Meadow". This cul-de-sac is accompanied by detached dwelling houses on one-side grouped around an area of open space. Its boundary with Dunmore Road is the subject of mature landscaping. The nearest dwelling house to the site lies at No. 1 The Meadow and it presents a gabled side elevation to Dunmore Road.

2.0 Proposed Development

- 2.1. The proposal would entail the erection of a 15m high pole with a diameter of 0.36m and a footprint of 0.1 sqm. This pole would support 1 no. 3.2m antenna, 2 no. GPS domes on brackets, and 1 no. 300mm diameter dish (if there is no fibre infrastructure in the area).
- 2.2. The proposal would also entail the siting of an equipment cabinet with the following dimensions: 1.898m long, 0.798m wide, and 1.652m high. This cabinet would have a 1.51 sqm footprint and it would be sited beside the pole to the south-east.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons:

1. Given the site's location on an important transport corridor, the proposal would impede future road, footpath, and active travel measures and result in visual clutter.

2. The Planning Authority is not satisfied that alternative sites have been fully explored.
3. Given the site's proximity to an adjacent dwelling house, the proposal would seriously injure its residential amenity and depreciate its value.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See reasons for refusal.

3.2.2. Other Technical Reports

Roads and Transportation: Object – see the first reason for refusal.

4.0 Planning History

The following similar proposals to the current one are cited by the Planning Authority:

- **19/334** for a site adjacent to the junction between Cork Road and Claremount Road in Waterford was permitted for 5 years by the Planning Authority, as the proposal would be accommodated visually between tall buildings comprised in the Waterford Institute of Technology Campus and the former Waterford Crystal Factory.
- **19/523** for a site adjacent to the junction between St. John's Hill and The Folly in Waterford was refused by the Planning Authority, on the grounds that the site is elevated and close to sensitive land uses, only to be permitted for 10 years by the Board on appeal (**LC93.309598**).

5.0 Legislative Provisions

Section 254 of the Planning and Development Act, 2000 – 2021, is entitled "Licensing of appliances and cables, etc., on public roads". This Section states, amongst other things, the following:

1) Subject to subsection (2), a person shall not erect, construct, place or maintain—

... (ee) overground electronic communications infrastructure and any associated physical infrastructure, ...

on, under, over or along a public road save in accordance with a licence granted by a planning authority under this section ...

(4) A licence may be granted under this section by the planning authority for such period and upon such conditions as the authority may specify, including conditions in relation to location and design, and where in the opinion of the planning authority by reason of the increase or alteration of traffic on the road or of the widening of the road or of any improvement of or relating to the road, the appliance, apparatus or structure causes an obstruction or becomes dangerous, the authority may by notice in writing withdraw the licence and require the licensee to remove the appliance, apparatus or structure at his or her own expense.

(5) In considering an application for a licence under this section a 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...

(6) (a) Any person may, in relation to the granting, refusing, withdrawing or continuing of a licence under this section or to the conditions specified by the planning authority for such a licence, appeal to the Board.

(b) Where an appeal under this section is allowed, the Board shall give such directions with respect to the withdrawing, granting or altering of a licence under this section as may be appropriate, and the planning authority shall comply therewith.

6.0 Policy and Context

6.1. National Planning Guidelines

Telecommunications Antennae and Support Structures Guidelines as revised by Circular Letters PL 07/12 and PL 11/20.

6.2. Development Plan

Under the Waterford City and County Development Plan 2022 – 2028 (CDP), the site is shown as lying within the settlement boundary around Waterford City and in an area zoned “open space and recreation”. Dunmore Road is identified as a proposed active travel/public transport corridor.

Utilities Objective UTL 16 of the CDP addresses telecommunications masts and related matters. It states the following:

We will work in collaboration with service providers to deliver a more enhanced connectivity service experience in a way that protects our footway and road surfaces and delivers the economic and community benefits of technology. We will facilitate the continued provision of communication networks, smart infrastructure, broadband and appropriate telecommunications infrastructure and services, subject to environmental considerations, in order to contribute to economic growth, development, resilience and competitiveness. In considering proposals for such infrastructure and associated equipment, the following will be taken into account:

- *The installation of the smallest suitable equipment to meet the technological requirements,*
- *Solutions to deliver shared telecommunication physical infrastructure in new development to facilitate multiple service providers at a non-exclusive basis and at economically sustainable cost to service providers and end users,*
- *Concealing or disguising masts, antennas, equipment housing and cable runs through design or camouflage techniques; or*
- *A description of the siting and design options explored and the reason for the chosen solution, details of the design, including height, materials and all components of the proposals,*
- *A landscaping and screen planting plan (if appropriate),*
- *An assessment of the cumulative effects of the development in combination with existing equipment in the area; and a visual impact assessment (if relevant).*

Proposed development will be required to have regard to the “Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities, 1996 and Circular Letter PL07/12” issued by the Department of the Environment Heritage and Local Government and to any subsequent amendments as may be issued.

6.3. Natural Heritage Designations

Lower River Suir SAC (002137)

6.4. EIA Screening

The proposal is for a telecommunications structure with antennae and dishes. As such, it does not come within the scope of any of the Classes of development that are potentially the subject of EIA.

7.0 The Appeal

7.1. Grounds of Appeal

The applicant submits the following background information:

- The proposal would address a lack of coverage in the area surrounding the site, which is restricted to 3G reception at present. It would boost coverage to enable 4G and 5G to be received.
- The site was chosen for the following reasons:
 - The proposal would blend in with existing street lighting,
 - The convenience of a fibre connection, and
 - The avoidance of any existing services and public footpath.
- While “Three” is present on a flagpole structure at the nearby Ballinakill Shopping Centre, this structure would be unable to accommodate the upgrades that are needed to boost coverage.
- Other alternative sites are discussed in the wider area. In each case they would be unsuitable as they would lie outside the search area.
- The applicant draws attention to the report of the Mobile Phone and Broadband Task Force, which led to the introduction of amendments to Section 254 to enable masts to be sited on public roads under licence. The spirit of these amendments is to remove barriers to the rollout of telecommunications infrastructure.

- The imperative attached to the aforementioned rollout is traced through national, regional, and local plans.
- Reference is made to the applicant’s Visual Impact Assessment (VIA) and to the comments of the reporting inspector for PL61.306440, which are viewed as applicable to the current case, too. He stated, “I would consider that the structure itself is nondescript in character and design and is not dissimilar in scale or design to 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 proceeds to cite the following reasons for its appeal:

- In relation to the first reason:

Why the proposal would impede future road, footpath, and active travel measures is unclear. The site is part of a grass verge and so its development as proposed would not affect any public footpath or road. Objectives in the former City Development Plan (2014 – 2020) for cycle and bus lanes appear to have been fulfilled “on the ground”.

The visual clutter critique is cited without any justification and yet similar proposals are being permitted throughout the country. In this respect, the Board’s decision on LC93.309598 is cited as being pertinent. The reporting inspector commented that the proposal would quickly “become an accepted and normal part of the urban streetscape”, and, while a visual impact would be unavoidable, “it would not have any undue impact on the surrounding land uses or the protected structures.”

- In relation to the second reason:

As the applicant has provided information on alternative sites, the Planning Authority’s critique in this respect is mis-placed.

The roof mounted equipment on the Ballinakill Centre would not be capable of being upgraded and so this equipment would be de-commissioned and removed from its position with an attendant visual gain.

Still other potential sites are discussed. These are set aside on topographical grounds, i.e., they would be lower than the current application site, conservation grounds, and residential amenity grounds.

- In relation to the third reason:

The adjacent dwelling house at No. 1 The Meadow would be 12m away, it would not be orientated towards the site, and it would be separated from this site by mature trees. In this respect, LC93.309598 is again cited as being instructive as the site in this case was near numerous residential properties.

7.2. Planning Authority Response

None

7.3. Observations

None

7.4. Further Responses

None

8.0 Assessment

8.1. I have reviewed the proposal in the light of Section 254 of the Planning and Development Act, 2000 (as amended) (herein after referred to as “the Act”), the National Development Plan 2018 – 2027 (NDP), the National Planning Framework 2020 – 2040 (NPF), Telecommunications Antennae and Support Structures Guidelines as revised by Circular Letter PL 07/12, the Waterford City & County Development Plan 2022 – 2028 (CDP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Legislation, policy, and site selection,
- (ii) Dunmore Road,

(iii) Visual and residential amenity,

(iv) Appropriate Assessment.

(i) Legislation, policy, and site selection

- 8.2. The proposal is for the erection of a pole, which would incorporate an antenna and other telecommunications equipment, and an accompanying cabinet in the grass verge to Dunmore Road (R683) to the north-west of the roundabout that serves the Ballinakill Shopping Centre. This proposal comes within the description of development set out in Section 254 Sub-section (1) (ee) of the Planning and Development Act, 2000 (as amended). Under Sub-section (4), Planning Authorities are empowered to grant licences for such development, and, under Sub-section (5), criteria are listed for assessing the same.
- 8.3. The NDP has as a fundamental underlying objective the need to prioritise the provision of high-speed broadband. Likewise, Objective 48 of the NPF undertakes to “develop a stable, innovative and secure digital communications and services infrastructure on an all-island basis.” Under Policy UTL 16 of the CDP, the Planning Authority undertakes to facilitate the “continued provision of communication networks, smart infrastructure, broadband and appropriate telecommunications infrastructure and services, subject to environmental considerations...”
- 8.4. The Planning Authority’s second reason for refusal relates to whether alternative sites have been explored sufficiently. The applicant has submitted information on such sites within the locality of the current licence application site. It explains why these sites would be less satisfactory either from a technical perspective or a planning perspective from the one selected. In particular, it addresses the “flag pole” structure on the roof of the nearby Ballinakill Shopping Centre. While this structure is operated by Three, the prospective operator of the current proposal, it is unsuitable for the incorporation of further telecommunications equipment. Instead, this proposal would be undertaken in conjunction with the de-commissioning of the “flag pole” structure. I consider that the applicant has explored sufficiently alternative sites and so its selection of the licence application site appears to be justified.
- 8.5. I conclude that the proposal comes within the ambit of Section 254 of the Act and that it would promote the fulfilment of national and local objectives for the roll out of

improved broadband coverage. I also conclude that the licence application site has been selected following a satisfactory exploration of alternative sites.

(ii) Dunmore Road

- 8.6. The site lies within the extensive grass verge that accompanies the outbound lane of Dunmore Road (R683) as it approaches the roundabout that serves the Ballinakill Shopping Centre. This verge “reads” as a “build out” into the carriageway, and it is preceded by etched markings on the nearside of the carriageway lane. This lane is accompanied by a cycle lane with a footway beyond its grass verge. The inbound lane is accompanied by a “build out” grass verge that recedes to provide a bus lane. (A bus stop and shelter lie beside the start of this bus lane). The two corresponding grass verges combine to provide a pinch point to the carriageway ahead of the roundabout. Modern street lighting is sited in or beside these grass verges.
- 8.7. Under the CDP’s Transport Map, the R683 is shown as being a proposed active travel/public transport route. The Planning Authority’s first reason for refusal recognises this route designation and expresses concern that the proposal would impede future road, footpath, and active travel measures and result in visual clutter. The applicant has responded by drawing attention to the provision within the existing section of Dunmore Road in the vicinity of the site of facilities for pedestrians, cyclists, and buses. It has difficulty envisaging what further measures could be undertaken in these respects within the available public road. The applicant also challenges the visual clutter concern by stating that the proposal would quickly “become an accepted and normal part of the urban streetscape”.
- 8.8. During my site visit, I observed that the existing layout of Dunmore Road in the vicinity of the site has relatively recently been reconfigured to both calm traffic and provide for vulnerable road users. I note that the CDP does not contain any site-specific proposal for this portion of Dunmore Road. I note, too, that Section 254(4) specifically empowers the Planning Authority to withdraw any licence and require the removal of any telecommunications structure where in its opinion “by reason of the increase or alteration of traffic on the road or of the widening of the road or of any improvement of or relating to the road, the appliance, apparatus or structure causes an obstruction or becomes dangerous”. Furthermore, any licence would be conditioned to be time limited. Accordingly, to grant the applied for licence would not

prejudice future interventions to Dunmore Road that may be deemed necessary by the Planning Authority.

- 8.9. I will discuss the question of visual clutter under the third heading of my assessment.
- 8.10. I conclude that the proposal would be compatible with the existing operation of Dunmore Road, which provides for vulnerable road users. I conclude, too, that the Planning Authority would be in a position to withdraw any licence should interventions to this Road become necessary that would be impeded by the proposal.

(iii) Visual and residential amenity

- 8.11. The proposal is essentially for a 15m high Alpha 3.0 Street Pole and an accompanying cabinet at ground level. This Street Pole would be a galvanised and painted pole, which would have any cables internalised within it. The Street Pole would be sited in an expansive grass verge that is punctuated by existing street lighting stands of similar height.
- 8.12. The Planning Authority's first reason for refusal critiques the proposal on the grounds that it would represent visual clutter. The applicant has responded to this critique by drawing attention to the modern streetscape of the host portion of Dunmore Road within which the addition of this proposal would be readily accommodated visually.
- 8.13. During my site visit, I observed Dunmore Road in the vicinity of the site, which, as described under the second heading of my assessment, is of modern configuration and lit by street lighting stands of similar height to the proposal. The 15m high Alpha 3.0 Street Pole is being used extensively throughout the country and its simple design is facilitating its ready assimilation into modern streetscapes such as the one presented by Dunmore Road. I, therefore, consider that its visual impact would be minimal. Insofar as its provision would be undertaken in conjunction with the removal of the "flag pole" telecommunications mast on the Ballinskill Shopping Centre, any net increase in "visual clutter" would be minimal, too.
- 8.14. The Planning Authority's third reason for refusal draws attention to the dwelling house at No. 1 The Meadows and it states that the proposal would seriously injure its residential amenity and depreciate its value. The applicant has responded by stating that this dwelling house would be 12m away, it would not be orientated towards this site, and it would be separated from it by mature landscaping.

- 8.15. During my site visit, I observed the site in relation to The Meadows. In addition, to the factors cited by the applicant, I noted that the cul-de-sac and the dwelling house in question are at a higher level than Dunmore Road and the proposal would be sited in a position that would correspond with the south-western side elevation of this dwelling house rather than either its front or rear elevations. These factors would combine to ensure that the proposal would have a minimal impact on residential amenity and so any question of depreciation in property value can be set aside.
- 8.16. I conclude that the proposal would be compatible with the existing visual and residential amenities of the area.

(iv) Appropriate Assessment

- 8.17. The site is not in or beside any European site. This site forms part of a fully serviced public road and its development to provide a telecommunications mast would raise no Appropriate Assessment issues for any European site.
- 8.18. Having regard to the nature, scale, and location of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. That a Section 254 licence be granted.

10.0 Reasons and Considerations

Having regard to:

- The provisions of Section 254 of the Planning and Development Act, 2000 (as amended),
- The National Development Plan 2018 – 2027,
- Objective 48 of the National Planning Framework 2020 – 2040,
- The Telecommunications Antennae and Support Structures Guidelines as revised by Circular Letter PL 07/12, and

- Objective UTL 16 of the Waterford City & County Development Plan 2022 – 2028,

it is considered that, subject to conditions, the proposal would contribute to the roll out of broadband services in accordance with national and local objectives. This proposal would be consistent with the convenience and safety of road users, including pedestrians, and it would be compatible with the visual and residential amenities of the area. No water or Appropriate Assessment issues would arise. The proposal would, therefore, accord with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the proposed colour scheme for the telecommunications structure, and ancillary structure 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>
3.	<p>(a) This license shall apply for a period of ten years from the date of this order. The telecommunications structure and related ancillary structure shall then be removed unless, prior to the end of the period, a license shall have been granted for their retention for a further period.</p> <p>(b) The site shall be reinstated on removal of the telecommunications structure and ancillary structures. Details relating to the removal and</p>

	<p>reinstatement shall be submitted to and agreed in writing with the planning authority at least one month before the date of expiry of this license.</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, and any emerging proposals for Dunmore Road.</p>
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Hugh D. Morrison
Planning Inspector

24th November 2022