



An
Bord
Pleanála

Inspector's Report

ABP-312312-21

Development	Section 254 Licence application for a telecommunication streetpole
Location	Public Grass Verge, Auburn Avenue, Castleknock, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	S254W/04/21
Applicant(s)	Cignal Infrastructure Limited
Type of Application	Section 254 Licence
Planning Authority Decision	Refuse
Type of Appeal	First
Appellant(s)	Cignal Infrastructure Limited
Observer(s)	None
Date of Site Inspection	23 rd March 2022
Inspector	Ian Boyle

1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of Auburn Avenue, in Castleknock, Dublin 15. Auburn Avenue is a tree lined avenue within a residential area. It travels in a north - south direction and connects to the M50 Motorway at Junction 6, approximately 850m to the north.
- 1.2. There is a pedestrian footpath and grass verge running alongside Auburn Avenue on its western side and the appeal site is within the grassed strip. An existing lamp standard and painted cabinet are south of the site and are within the same grassed median.
- 1.3. There is an existing open space area to the west and mature trees are widespread in the surrounding vicinity, particularly along Auburn Avenue. The open space is relatively expansive, grassed, and surrounded by residential housing. There is a church and parish centre, called 'Our Lady Mother of the Church', roughly 140m to the west.
- 1.4. The site is owned by Fingal County Council.

2.0 Proposed Development

- 2.1. The Applicant is seeking approval for a Section 254 Licence, comprising an 15m high freestanding telecommunications monopole together with antenna, internal cabling, dish, and ancillary cabinet and operating works.
- 2.2. The monopole would be approximately 0.4m at its widest point and cables housed internally.
- 2.3. The purpose of the proposed infrastructure is to provide improved, high quality network coverage for the surrounding area.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused the Section 254 licence for one reason, which was that, having regard to the nature and height of the proposed communication

infrastructure, its location with a densely populated area, and its proximity to existing residential properties, it was considered that the streetpole would damage the visual and residential amenity of the area, be contrary to the objectives of the Fingal 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**

3.3. **Planning Reports**

The report of the Planning Officer dated 19th November 2021 informed the decision of the Planning Authority and includes the following;

- There is a strategic need for the proposed streetpole that would provide a benefit to the area through improve mobile and wireless broadband. However, this must be balanced against its significant impact on the visual and residential amenity of the area.
- The submitted photomontages are considered deficient as they do not show how the existing trees would look during the Autumn / Winter when the leaves have shed.
- The schematic elevation (Drwg. No. DN_1982_104) provides a more realistic view of the visual impact of the proposal which is considered to damage the visual and residential amenity of the area.

3.3.1. **Other Technical Reports**

Transportation: No objection, subject to conditions.

Water Services: No objection to surface water drainage. Referred to Irish Water for foul drainage and water supply.

3.4. **Prescribed Bodies**

Irish Water: No objection, noted the presence of a 100mm watermain underneath the grass verge.

4.0 Policy Context

4.1. Planning Authorities on Telecommunications Antennae and Support Structures issued (1996)

- 4.1.1. The *'Guidelines for Planning Authorities on Telecommunications Antennae and Support Structures'* (1996) set out government policy for the assessment of proposed new telecommunications structures ('the 1996 Guidelines'). The Guidelines state that the rapid expansion of mobile telephone services in Ireland has required the construction of base station towers in urban and rural areas across the country. This is an essential feature of all modern telecommunications networks. In many suburban situations, because of the low rise nature of buildings and structures, a supporting mast or tower is needed.
- 4.1.2. Section 4.3 of the Guidelines refers to visual impact and states that only as a last resort should free-standing masts be located within, or in the immediate surrounds, of smaller towns or villages. If such locations should become necessary, sites already developed for utilities should be considered, and masts and antennae should be designed and adapted for the specific location.
- 4.1.3. The support structure should be kept to the minimum height consistent with effective operation. The Guidelines also state that visual impact is among the more important considerations that should be considered assessing a particular application. In most cases, the Applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters, etc. Visual impact will, by definition, vary with the general context of the proposed development.
- 4.1.4. The Guidelines state that the approach will vary depending on whether a proposed development is in:
- a rural/agricultural area;
 - an upland/hilly, mountainous area;
 - a smaller settlement/village;
 - an industrial area/industrially zoned land; or
 - a suburban area of a larger town or city.

4.1.5. The Guidelines state that some masts will remain quite noticeable despite best precautions. For example, there will be local factors which have to be taken into account in determining the extent to which an object is noticeable or intrusive. This may include intermediate objects (buildings or trees), topography, the scale of the object in the wider landscape, the multiplicity of other objects in the wider panorama, the position of the object with respect to the skyline, weather, lighting conditions, etc. Softening of the visual impact can be achieved through a judicious choice of colour scheme and through the planting of shrubs, trees etc as a screen or backdrop.

4.2. **Circular Letter PL07/12**

Circular Letter PL07/12 revised elements of the 1996 Guidelines under Section 2.2 to 2.7. It advises Planning Authorities to:

- Cease attaching time limiting conditions or issuing temporary durations to telecommunications masts, except in exceptional circumstances.
- Avoid including minimum separation distances between masts or schools and houses in Development Plans.
- Omit conditions on planning permissions requiring security in the form of a bond/cash deposit.
- Not include monitoring arrangements on health and safety or to determine planning applications on health grounds.
- Include waivers on future development contribution schemes for the provision of broadband infrastructure.

4.3. **Circular Letter PL11/2020**

4.3.1. Circular Letter PL11/2020 'Telecommunications Services – Planning Exemptions and Section 254 Licences' was issued in December 2020. It advises Planning Authorities that:

- Section 254 of the Act outlines the provisions in relation to the licensing of appliances and cables etc on public roads. Where development of a type specified in section 254(1) of the Act is proposed to be carried out on a public

road, approval for the works is required from a Planning Authority by means of the obtaining of a section 254 licence.

- A Section 254 Licence is required for overground electronic communications infrastructure and its associated works, and that such works are exempt from planning permission.
- The exemptions for telecommunications infrastructure along public roads do not apply:
 - (a) where the proposed development is in sensitive areas where there is a requirement for Appropriate Assessment.
 - (b) where the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users.

Section 254(5) of the Act outlines the criteria to which the Planning Authority shall have regard in assessing such proposals:

- 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.

4.4. Fingal County Development Plan 2017-2023 ('Development Plan')

Zoning

The appeal site is not zoned and is located within a grassy verge that runs parallel to a public road. The lands to the west are zoned 'OS – Open Space'.

Cycle / Pedestrian Route

There is an objective for an indicative 'Cycle / Pedestrian Route' along Auburn Avenue.

Movement and Infrastructure – Chapter 7

'Telecommunications Antennae and Support Structures' (Section 7.4)

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 IT05

Provide the necessary telecommunications infrastructure throughout the County in accordance with the requirements of the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities July 1996 except where they conflict with Circular Letter PL07/12 which shall take precedence, and any subsequent revisions or additional guidelines in this area.

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.

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.*

4.5. Natural Heritage Designations

No designations apply to the subject site.

5.0 The Appeal

5.1. Grounds of Appeal

- The proposed development is located on a grass verge on the west side of Auburn Avenue and will not interfere with the use of the public footpath.

- There is an existing streetlamp and cabinet south of the site within the same grass verge. There are also mature trees north and south. It is considered that the development would blend in with its receiving environment.
- There are no dwellings in the immediate vicinity of the site. The closest dwelling is approx. 20m on the opposite side of Auburn Avenue (No. 20 Hadleigh Court).
- The development is required to improve network coverage in the area.
- The Applicant has completed a 'Street Works Site Justification Form'. The proposed location was selected as it is within the applicable search area.
- Alternative locations were examined by the Applicant. However, these were not suitable or acceptable for various reasons. The proposed installation would form part of an established telecommunications network system that Eir operates in the area. It has been carefully chosen to ensure performance levels are maintained.
- The technical justification includes two maps at Figure 4 ('Existing Indoor Coverage) and Figure 5 ('Proposed Indoor Coverage'). The predicted network improvement is shown in blue in Figure 6 ('Comparison Coverage'). It is anticipated that the existing network coverage problems would be significantly improved by the installation of the proposed infrastructure and that a 'coverage blackspot' will be addressed.
- The Applicant references various supporting policy objectives from the County Development Plan, including Objectives IT07, IT08, DMS143, DMS144, DMS145, and other national and regional policy documents.
- There are no protected scenic routes or amenity designations that apply to the site. The site is not within an ACA or near any Protected Structures. It is not within a designated SAC or SPA.
- The Visual Impact Statement (VIA) concludes that while the proposed 15m monopole will be visible from close-up locations, which is to be expected, it would not be detrimental to the visual amenities of the area.

- The established backdrop of development and street lighting would absorb the proposed structure from various viewpoints.
- It is acknowledged that the streetpole would be more visible during the autumn/winter months. However, it is important to highlight that due to the considerable amount of trees in a row, on either side of the site, the cumulative presence of these trees, even when leafless, would still have a significant screening value and obscure the majority of the streetpole from most views along Auburn Avenue. The CGIs enclosed with the appeal clearly demonstrate this.
- The Applicant refers to a previous appeal case involving Galway City Council in 2020 where the Board's Inspector referenced the proposed telecoms mast as having a 'nondescript character and design that is not dissimilar to a lamp standard or traffic light pole'. The proposed development was recommended to be granted by the Inspector and ultimately permitted by the Board (ABP Ref. PL.61.306440).

5.2. Planning Authority Response

- The Board is respectfully requested to uphold the decision of the Planning Authority to refuse permission for the development.

6.0 Assessment

The main planning considerations relevant to this appeal case are:

- Residential Amenity and Visual Impact
- Site Selection (Alternatives Considered)
- Appropriate Assessment

6.1. Residential Amenity and Visual Impact

- 6.1.1. The Planning Authority's reason for refusal is due to nature and height of the proposed communication infrastructure, its location within a densely populated area,

and its proximity to existing residential properties, that it was considered the proposed streetpole would damage the visual and residential amenity of the area.

- 6.1.2. The Development Plan (Objective IT07) requires best practice in siting and design in relation to erecting communication antennae. Objective IT08 is also relevant in that it seeks to keep visual impact to a minimum and requires that detailed consideration be given to the siting and external appearance of proposed equipment.
- 6.1.3. I have visited the appeal site and acknowledge that the proposed telecommunications facility may result in some potential visual impact being incurred on the local environment. This is largely due to the height of the proposed monopole, which is 15m. Section 4.3 in the 1996 Guidelines states that sites close to existing residential areas are particularly sensitive from a visual and residential amenity perspective and I note that there are housing estates in the vicinity of the site, the closest of these being Hadleigh Court to the east, across Auburn Avenue, where the gable ends of Nos. 20 and 25 face towards the appeal site.
- 6.1.4. The Applicant has submitted a Visual Impact Assessment to aid in the visual assessment of the development proposal. The assessment comprises 8 no. viewpoints in total which are from various nearby and further afield locations. The viewpoints are from mainly along Auburn Avenue. There are 6 no. viewpoints from the north, 2 no. from Hadleigh Green (northeast), and 2 no. from the south, including from the corner between Auburn Avenue and Hadleigh Court.
- 6.1.5. Whilst I acknowledge the proposed monopole would be more visible than some of the existing structures in the area, including overhead powerlines, lamp standards and road signage, I consider that it would not be so visually impactful that it would seriously injure the visual and residential amenity of the receiving environment. This is evident from viewing the schematic elevation in Drawing No. DN_1982_104 and during my physical inspection of the site.
- 6.1.6. The proposed development would take up a relatively small footprint and many views towards it would be blocked and / or significantly reduced by the presence by several large trees in the area. This is particularly the case for longer distance viewpoints from both the north and south, including Viewpoints 1, 2, 3, 4, and 8, where only partial views are likely.

- 6.1.7. In other locations, closer to the appeal site, such as Viewpoints 6 and 7, full visibility of the proposed development would be likely. However, I note that the 1996 Guidelines state that some masts will remain quite noticeable despite best precautions. The proposed monopole adopts a slender appearance and, in my opinion, the Applicant has sought to minimise its potential for visual impact by selecting a monopole of low to medium height. The 1996 Guidelines state that the height of telecoms support structures, when the requirements of the backbone network are taken into account, can range from 12m to 60m, although most typically will be between 20m and 40m. The proposed monopole is 15m.
- 6.1.8. I note that the Planning Authority considered the photomontages deficient as they do not show the existing trees in the area during the wintertime when their leaves would be shed. I acknowledge that during the summer months the vegetative screening provided by the trees would likely be denser and thicker when in full leaf. However, the trees are large and have very significant crowns, so that even when not in full bloom they can still significantly reduce the potential for visual impact caused by the proposed development. I completed my site inspection at a time when the trees were devoid of foliage and their presence was still a significant contributing factor in obscuring views – and particularly longer views – of the proposed development.
- 6.1.9. In summary, I do not consider that the proposed development would present as overly dominant, or be an overbearing feature, in this setting and that the Applicant has employed appropriate mitigation measures to reduce any such impact from arising. Therefore, I consider the proposal to be acceptable from a visual impact and residential amenity perspective and that it is in accordance with the provisions of the County Development Plan, including Objectives IT07, IT08 and DMS145.

6.2. **Site Selection (Alternatives Considered)**

- 6.2.1. The Development Plan seeks to 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 IT01). Standard DMS143 of the Development Plan requires the co-location of antennae on existing

support structures and where this is not feasible requires documentary evidence as to the non-availability of this option in proposals for new structures.

- 6.2.2. The Applicant states that Eir are upgrading their network in Dublin to provide customers with better quality mobile and wireless broadband services. I have viewed the ComReg Outdoor Coverage Map for 3G and 4G coverage for the site and its surrounding vicinity.
- 6.2.3. Eir's 3G coverage for the area varies between 'very good' and 'good', which means that there is a mix of strong signal with maximum and good data speeds. The quality of network coverage is weaker in some spots to the northeast, but generally the quality of signal is strong.
- 6.2.4. The 4G Outdoor Coverage Map shows that Eir's coverage for the area varies between 'good', 'fair', and 'fringe' and that the network is least effective in this general area towards the west and south. This means that large parts of the immediate vicinity, including both in and around the appeal site, has sporadic access only to fast and reliable data speeds and that marginal data transfer speeds and drop-outs are possible. It also means that for the 'fringe' areas, disconnections are likely to occur. Therefore, having had regard to the ComReg online mapping system, it is apparent that network coverage is lacking and that network blackspots exist in this part of Castleknock.
- 6.2.5. The Telecommunication Guidelines and Planning Circular PL07/12 encourages co-locating antennae on existing support structures and requires documentary evidence of the non-availability of this option for proposals for new structures. It also requires the shared use of existing structures for telecoms infrastructure where there is an excessive concentration of masts in a single area. I note that there is a general absence of suitable tall structures or buildings within the general area, which likely has curtailed the range of options available to the Applicant from which to base the proposed telecoms infrastructure.
- 6.2.6. Telecommunication facilities are also encouraged to primarily locate within existing industrial estates, or industrially zoned land, in the vicinity of larger suburban areas or towns, insofar as this is possible. However, there are no industrial estates in the vicinity of the appeal site, or surrounding area.

- 6.2.7. I note that the Applicant also discounted the existing telecoms structures at Site A and at St. Brigid's GAA Club (Site B) as they do not have capacity to add any additional Mobile Network Operators and that both locations are outside the search ring area.
- 6.2.8. Having assessed the information on file, and the existing coverage information that is available on the ComReg website, I am satisfied that alternative sites had been considered by the Applicant, the proposal is justified, and that it would help to improve the existing service network coverage for the surrounding area.
- 6.2.9. In my opinion, the Applicant has provided adequate technical justification that demonstrates there are service deficiencies in the area, which would be addressed by the proposed development. The proposal is consistent with Objectives DMS143 and DMS145 of the Development Plan, and the 1996 Guidelines, which require co-location of antennae on existing support structures, but that where this is not feasible to submit evidence of the non-availability of this option.

6.3. Appropriate Assessment

Given the nature and scale of the development proposed, which is for a telecommunications support structure and ancillary works, and separation distance from the nearest Natura 2000 site, it is considered that the proposal would not be likely to have a significant effect individually or in combination with other plans and projects on a European site and there is no requirement for a Stage 2 Appropriate Assessment.

7.0 Recommendation

I recommend that a licence be granted subject to conditions, for the reasons and considerations as set out below.

8.0 Reasons and Considerations

Having regard to the natura, scale and design of the proposed development, which is a 15m high freestanding monopole carrying telecommunications equipment with ancillary ground-mounted infrastructure, the provisions of section 254 of the Planning

& Development Act, 2000 (as amended), the Fingal County Development Plan 2017-2023, and the 'Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities (1996) (as updated by Circular Letters PL 07/12 and PL11/2020, respectively); it is considered that the proposed development would not seriously injure the visual or residential amenities of the area or the amenities of property in the vicinity of the site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 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>a) This licence shall apply for a period of five years from the date of this Order. The telecommunications structure and related ancillary structures shall then be removed unless, prior to the end of the period, continuance 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 reinstatement shall be submitted to, and agreed in writing with, the planning authority at least one month before the date of expiry of this licence.</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>

3.	<p>Details of the proposed colour scheme for the telecommunications structure, ancillary structures and 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>
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>

Ian Boyle
 Planning Inspector

28th March 2022