



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313324-22

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<b>Development</b>	An application for a Section 254 Licence for a Telecommunications Cabinet & Associated Pole.
<b>Location</b>	Howth Road, Clontarf, Dublin 3.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	CAB477
<b>Applicant(s)</b>	On Tower Ireland Ltd
<b>Type of Application</b>	S. 254 Licence
<b>Planning Authority Decision</b>	Grant Licence
<b>Type of Appeal</b>	Third Party Appeal
<b>Appellant(s)</b>	Kevin Sweeney
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	13 <sup>th</sup> February 2023
<b>Inspector</b>	Susan Clarke

## 1.0 Site Location and Description

- 1.1. The site is located on the south side of the Howth Road (R105), close to the junction with Ashbrook Road in Clontarf. The site is located on the public footpath along the front garden boundary wall and hedge of No. 121 Howth Road, a De La Salle Provincilate parochial house.
- 1.2. The footpath varies in width from 3m to 3.5m. The 610 bus stop and shelter and litter bin are located immediately west of the site. A post box is positioned further west of the bus stop, next to the vehicular entrance to No. 121. There are tall street lamps on both sides of the road. The northern elevation of No. 121 is c.28m from the subject site, while No. 123 is c.15m southeast of the site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises a freestanding galvanised pole structure and antennae with an overall height of 15m, an operator cabinet (1.898m x 1.652m high x 0.798m depth) and associated works.
- 2.2. The monopole, with mobile telephony attached, would be approximately 360mm diameter and all cables would be housed internally. The purpose of the proposed infrastructure is to provide improved, high quality network coverage for the surrounding area (c. 400m).
- 2.3. It is intended that the proposed development would replace an existing facility on the roof of a SuperValu store at No. 169 Howth Road.
- 2.4. The application is accompanied by a Planning Statement and a visual impact study.
- 2.5. The proposed development, together with one electrical pillar box, were implemented on site at the time of the inspection.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Section 254 licence granted on 10<sup>th</sup> March 2022 subject to 24 No. conditions.
- 3.1.2. Condition No. 23 limits the duration of the licence to a period of five years.

3.1.3. All other conditions are generally standard in nature.

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planning Reports

Basis of Planning Authority's decision. The principle of the development was considered acceptable, with no siting or design concerns arising.

#### 3.2.2. Other Technical Reports

Transportation Planning Division: No objection.

### 3.3. **Prescribed Bodies**

None.

### 3.4. **Third Party Observations**

A number of Observations were submitted to the Local Authority from local residents objecting to the development. Key points raised included *inter alia*:

- Reduced residential amenity
- Negative visual impact
- Need for the proposed infrastructure
- Health concerns
- Pedestrian safety concerns
- Proposal contrary to Development Plan policy.

## 4.0 **Planning History**

4.1. There is no recent relevant planning or licensing history pertaining to this site.

4.2. Reg. Ref. CAB 464: A licence was sought to provide for the infrastructure to the southwest of the bus stop. However, the application was subsequently withdrawn to avoid conflicts with advertisement structures at the bus shelter.

## 5.0 Policy Context

### 5.1. Dublin City Development Plan 2022-2028

- 5.2. The Dublin City Development Plan 2022-2028 is of relevance. The site is not zoned. Section 15.18.5 of the Plan deals with telecommunications and digital connectivity, and for reference, is quoted here in its entirety.

*All new developments will be required to provide for open access connectivity arrangements directly to individual premises to enable service provider competition and consumer choice in line with Policy SI45 of the development plan.*

*The provision and siting of telecommunications antennae shall take account of the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, (Department of Environment and Local Government, 1996), as revised by DECLG Circular Letter PL 07/12, and any successor guidance. Telecommunications antennae and supporting structures should preferably be located on industrial estates or on lands zoned for industrial/employment uses. Possible locations in commercial areas, such as rooftop locations on tall buildings, may also be acceptable, subject to visual amenity antennae should be designed for the specific location.*

*In assessing proposals for telecommunication antennae and support structures, factors such as the object in the wider townscape and the position of the object with respect to the skyline will be closely examined. These factors will be carefully considered when assessing proposals in a designated conservation area, open space amenity area, historic park, or in the vicinity of protected buildings, special views or prospects, monuments or sites of archaeological importance. The location of antennae or support structures within any of these areas or in proximity to protected structures, archaeological sites and other monuments should be avoided.*

*Where existing support structures are not unduly obtrusive, the City Council will encourage co-location or sharing of digital connectivity infrastructure such as antennae on existing support structures, masts and tall buildings (see Policy*

*SI47). Applicants must satisfy the City Council that they have made every reasonable effort to share with other operators.*

Policy SI45 'Support for Digital Connectivity' states:

*To support and facilitate the sustainable development of high-quality digital connectivity infrastructure throughout the city in order to provide for enhanced and balanced digital connectivity that future-proofs Dublin City and protects its economic competitiveness [sic] (for further guidance see Section 15.18.5).*

Policy SI48 'Sharing and Co-Location of Digital Connectivity Infrastructure' states:

*To support the appropriate use of existing assets such as lighting, traffic poles and street furniture for the deployment of telecoms equipment and to encourage the sharing and co-location of digital connectivity infrastructure (including small cells, access points, communications masts and antennae) in order to avoid spatially uncoordinated and duplicitous [sic] provision that makes inefficient use of city space and negatively impacts on visual amenity and built heritage.*

### **5.3. Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996)**

- 5.3.1. These Guidelines establish a policy framework and provide general guidance on relevant planning issues for planning authorities, telecommunications providers and the general public.
- 5.3.2. In the vicinity of larger towns and in city suburbs, operators should endeavour to locate in industrial estates or on industrially zoned land. The possibilities offered by some commercial or retail areas and ESB substations should be explored. In urban and suburban areas, the use of tall buildings or other existing structures is always preferable to the construction of an independent antennae support structure. Only as a last resort should free-standing masts be located in residential areas or beside schools. 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.

### **5.4. Circular Letter: PL07/12**

Circular PL07/12 updates sections 2.2 – 2.7 of the 1996 Guidelines. In summary, the Circular confirms that the granting of temporary permissions for telecommunication

masts and antennae is not appropriate; the inclusion in development plans of minimum separation distances from such development and the lodgement of a bond or cash deposit to remove obsolete structures is not appropriate; health and safety matters in respect of telecommunications infrastructure are regulated by other codes outside the planning process; and, waivers in respect of such development should be provided in Development Contribution Schemes.

## **5.5. Natural Heritage Designations**

There are no Natural Heritage Designations either within or immediately adjoining the site. There will be no connection to the public sewerage network. There are no watercourses linking the site with any such designated areas. Significant effects are not likely to arise, either alone or in combination with other plans or projects.

## **5.6. EIA Screening**

The proposed development is not of a class for the purpose of EIAR. The nature and scale of the development would not result in a real likelihood of significant effects on the environment.

# **6.0 The Appeal**

## **6.1. Grounds of Appeal**

An appeal has been lodged by Kevin Sweeney of Howth Road. The grounds of which can be summarised as follows:

- The proposed site is in a highly residential area and is out of line with other such installations.
- The installation will increase the clutter on this section of the footpath, which is very crowded particularly in the mornings when local people are making their way to work.
- The bus stop area also floods after heavy rains with water coming down the Howth Road.
- No information provided demonstrating that the Applicant has examined alternative sites. There are several sites within the 400m radius of the site that

could accommodate the proposed infrastructure, which would not be as intrusive on the public and the area.

- The proposal will be visible for a large radius including from the seafront and the Protected Structures on St Lawrence Road.
- Comreg maps suggest nearly all providers have Very Good or Good levels of coverage in the area. There is no indication of a blackspot in the area.
- It is not clear why the existing site at SuperValu is not acceptable.
- The demand for 5G is proving to be far over estimated and as such these masts may not be required.
- The proposal could set a precedent for this type of development in a residential area.

## **6.2. Applicant Response**

6.2.1. The response of David Mulcahy Planning Consultants Ltd, agent on behalf of the applicant, On Tower Ireland Ltd, received by the Board on 9<sup>th</sup> May 2022, can be summarised in bullet point format as follows:

- Queries the validity of the appeal as the Appellant refers to “we”, “our”, and “the residents” etc, yet the appeal is made on behalf of the Appellant only. There is no supporting evidence with the Appeal to corroborate that the points raised are the views of residents.
- The Local Authority considered the residents’ concerns to be overstated and simply because no such structure exists at present on the streetscape of this section of the Road does not mean this is a reason to prevent any such structure from being put in place.
- The proposal would not represent a proliferation of street furniture.
- The Appellant provides no evidence that the area floods and even if it did, it would not materially impact the proposed development.
- The subject site is the only viable site where coverage can be improved (as outlined in the planning statement).

- The proposal is being installed to serve Three and hence the coverage maps for Three were submitted with the application. The fact that other operators may have superior coverage in the area does not take from the fact that this is a blackspot for Three.
- The Appellant has provided no evidence that the demand for 5G infrastructure is overestimated and will not be required in the future.

### 6.3. **Planning Authority Response**

None received.

## 7.0 **Assessment**

7.1. I am satisfied that the main issues for consideration in this case include:

- Principle of the Development
- Alternative Sites
- Visual Impact
- Other Matters

### 7.2. **Principle of the Development**

7.2.1. The site is not zoned in the current development plan for the area – being white land associated with the adjacent roads. Therefore, there are no specific zoning objectives applying to it. The surrounding lands are zoned for residential development. The Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996) confirm that free standing masts should only be located in residential areas as a last resort. In such cases, the support structure should be kept to a minimum height and should be monopole rather than a latticed tripod or square structure. The nearest residential property to the subject site is No. 123 Howth Road, a detached two storey dwelling. A separation distance of c. 15 m arises between the front elevation of this property and the application site. The Appellant's residence is located further west, at a distance of approx. 27m. No. 121 is located approx. 28m south of the subject site. The dwellings on the opposite side of the Howth Road to the subject site, are well setback from the road and have mature trees along their



boundaries that would largely screen the proposed development from their view – see Photo 1 attached to this Report. I consider that the design of the proposed development, comprising a single monopole structure with an overall diameter of less than 0.36 metres, would not be unduly intrusive in terms of its impact on the character and setting of the neighbouring suburban area.

- 7.3. The Applicant's appeal response confirms that the proposed development forms part of an overarching strategy to address coverage needs in this part of the City. It is also confirmed that no existing sites or structures are suitable to facilitate the co-location of the proposed development (see Section 7.5 below). In short, I consider the Applicant's justification for the proposed development to be acceptable.
- 7.3.1. The erection of a mast and cabinet would not have any impact on the safety of road users. The footpath varies in width from 3m to 3.5m. It would be reduced in width to 2.2m and as such I do not consider that it would not obstruct pedestrian movement or interfere with pedestrian flows. Furthermore, I do not consider that it would lead to a proliferation of street furniture that would adversely impact on the area's amenity.
- 7.3.2. Furthermore, I concur with the Applicant that there is no technical or empirical evidence to suggest that the demand for 5G infrastructure is overestimated and will not be required in the future. As such, I do not consider this to be a reasonable ground for refusal.
- 7.4. Having regard to the foregoing, and the aims and objectives of the Development Plan to facilitate the development of a sustainable telecommunications network throughout the City, it is considered that the proposed development is acceptable in principle at this location.

## 7.5. **Alternative Sites**

- 7.5.1. 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 states that the shared use of existing structures will be required where there is an excessive concentration of masts located in a single area.
- 7.5.2. The proposed mast is stated to replace an existing Three mast on the roof of SuperValu at No. 169 Howth Road. The Applicant states that all existing sites

examined (5 No. in total), except the SuperValu site, are situated outside the required search ring (400m). Three is already operating from two of these sites.

- 7.5.3. The Applicant argues that the SuperValu site is not suitable for the upgrade and the existing infrastructure will be decommissioned. The Applicant contends that the only way to cover the area with suitable radio coverage is to provide for a new site to improve indoor service to the local residents and business users around Clontarf and Killester and the wider area. The Applicant contends that the site is considered the best possible solution to meet both the existing and future demands of its customers in the area. Coverage maps submitted with the application for Three demonstrate that signal levels would increase from 'fair' to 'excellent' as a result of the proposal.
- 7.5.4. Having reviewed the information contained within the application and the existing coverage information that is available on the ComReg website, I am satisfied that alternative sites had been considered by the Applicant, that the proposal is justified, and that it would help to improve the service coverage for the region.
- 7.5.5. I consider that the Applicant has provided adequate technical justification showing that there are service deficiencies in the area, which would be resolved by the proposed development. The proposal is consistent with 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.

## **7.6. Visual Impact**

- 7.6.1. The Appellant asserts that the proposed development will have an adverse visual impact on the area and that the proposal will be visible from the seafront and Protected Structures on St. Lawrence Road. The application included a visual impact assessment which illustrates the proposed development from four viewpoints surrounding the site. The Applicant submits that the visual impact of the proposed development would not be detrimental to the visual amenities of the area, the community amenities or of the public realm at this location.
- 7.6.2. The subject site is located in a suburban area which is characterised by a mixture of architectural styles. The site is not located in an architectural conservation area or conservation area. The closest Protected Structure is No. 124 Howth Road, which is located approx. 78m northwest of the site, on the opposite side of the road. Having regard to this distance and mature trees located along Howth Road, the proposed

development will largely not be visible. In addition, due to the built-up nature of the area, the proposed development will not dominate the area when viewed from St Lawrence Road. While it is acknowledged that the proposed development will be visible in short distance views of the site, in my opinion, the visual impact assessment which accompanies the application demonstrates that the monopole and antennae structure will read as a normal part of the urban environment, with no significant negative visual impact arising (see Views 1, 3 and 4).

## **7.7. Other Matters**

- 7.7.1. The Appellant states that the area in the vicinity of the site floods. The site is located in Flood Zone C (Map F of the Development Plan's Strategic Flood Risk Assessment), and as such is at a very low risk of flooding. Therefore, a Justification Test is not required. The proposed development would not result in an increase in hardstanding area and due to the scale of the proposal would not displace any large volume of water on the surrounding area. Having regard to the foregoing, I do not recommend that the licence is refused for the proposed development on the basis of flood risk.
- 7.7.2. I note that Circular PL 07/12 states that the attachment of conditions to permissions for telecommunication masts and antennae which limit their life to a set temporary period should cease. However, given that this appeal relates to a Section 254 licence application for development on public land, it is considered reasonable that the licence be granted for a specified duration as provided for under Section 254 (4) of the Planning and Development Act, 2000 (as amended). This will enable the planning authority to re-assess the suitability of proposed development at the end of the appropriate period, in light of any changed circumstances pertaining at that time. Condition 23 of the Licence indicated that it was for a period of 5 years. In allowing the granting of the licence, the Board should attach a condition relating to a similar five-year period. It would be appropriate to attach a condition to the licence restricting its use for advertising purposes – in the interest of visual amenity. Condition 23 of the licence issued by DCC addressed this issue.

## **8.0 Appropriate assessment**

- 8.1.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not

considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

## 9.0 Recommendation

- 9.1. I recommend that a licence be granted for the proposed development subject to the conditions set out below.

## 10.0 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 Dublin City Development Plan 2022-2028, to support the development of a sustainable telecommunications network throughout the city, to the Department of Environment, Heritage and Local Government 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 nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	This licence is for one 15 m freestanding pole and antennae and associated operator cabinet only in accordance with the details submitted to the planning authority on 6 <sup>th</sup> December 2021.  Reason: To clarify the nature and extent of the permitted development to which this licence relates and to facilitate a full assessment of any future alterations.
2.	(a) The licence shall be valid for a period of 5 years only from the date of this Order. The telecommunications structure and related ancillary

	<p>structures shall then be removed unless, prior to the end of the period, a further Section 254 licence has 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 and acceptability of the development to be reassessed, having regard to changes in technology and design during the specified period.</p>
3.	<p>No advertisement or advertisement structure shall be erected or displayed on the proposed structure or within the curtilage of the site.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
4.	<p>The structures hereby permitted shall not interfere with existing services, existing drainage systems and shall not obstruct pedestrian access.</p> <p>Reason: In the interests of orderly development and pedestrian safety.</p>

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Susan Clarke  
 Planning Inspector

14<sup>th</sup> February 2023