



An
Bord
Pleanála

Inspector's Report

ABP-314105-22

Development	Section 254 licence for a telecommunication structure at a public footpath.
Location	Junction of St. Assam's Park and St. Assam's Avenue, Raheny, Dublin 5.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	TIL008-22
Applicant(s)	Cignal Infrastructure Limited.
Type of Application	Section 254 Licence.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Cignal Infrastructure Limited.
Observer(s)	None
Date of Site Inspection	04.03.2023
Inspector	Fiona Fair

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	4
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
5.2. Natural Heritage Designations	7
5.3. EIA Screening	7
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Applicant Response	9
6.3. Planning Authority Response	9
6.4. Observations	9
6.5. Further Responses.....	9
7.0 Assessment.....	9
8.0 Recommendation.....	15
9.0 Reasons and Considerations.....	15
10.0 Conditions	15

1.0 Site Location and Description

- 1.1. The site is located at the junction of St. Assam's Park and St. Assam's Avenue in Raheney, Dublin 5. To the north west arm of a small roundabout.
- 1.2. The site comprises a portion of the public footpath, facing onto the roundabout, which is some 1.6m deep at the site location. There is a commercial block of retail / café units at ground floor with offices above to the north, along Saint Assam's Place. A car parking area associated with 62A Saint Assam's Avenue is located to the west. It is separated from the subject site by a low wall.
- 1.3. The café, 'Brew Barberista' (Coffee and Barbers), has associated outdoor seating to its front / east, at the junction of Saint Assam's Road and Saint Assam's Avenue. There is also a yield pole sign for the roundabout, some large plant boxes, a public bin and a post box on the built out footpath at this location.
- 1.4. On the opposite side of the roundabout to the north east is a public house and No. 79 and 2 St. Assam's Avenue are located to the south of the subject site and to the south west arm of the roundabout.

2.0 Proposed Development

- 2.1. Section 254 licence for a telecommunication structure at a public footpath. The proposal consists of:
 - A 15m Alpha 3.0 streetpole,
 - 1 no. 2.75m AW3836 Alpha Antennae at azimuths TBD° & 300mm dish to be included only if no fiber infrastructure in the area.
 - Ancillary cabinet (1.898m wide x 1.652m high x 0.798m deep).
- 2.2. The search ring, or area within which a telecommunications installation is required in order to meet the search ring objectives, is an area of c. 150 meters in diameter. The site is required in order to improve network coverage in the area. It has been identified by radio engineers that an installation within the search ring will bring required coverage to the coverage black spot, subject to a site specific assessment and radio clearance.
- 2.3. The location was chosen because of the following:

- It is within the search ring.
- There is adequate space to locate a street works solution and cabinet
- There is fiber located close to this location to ensure connectivity into the network
- The location will not interfere with existing services or footpath.

3.0 Planning Authority Decision

3.1. Decision

Having examined the various reports and recommendations on this application and given that both the transportation planning, who have refused and planning and development divisions have no objection to the proposal, I recommend the refusal of a telecommunications cabinet and associated pole measuring externally (1.898mL x 1.652mH) and a pole area (height 15m, diameter 0.36m) on the public footpath along St. Assam's Avenue, adjacent to All Financials / Brew Barerista.

Order: Application for licence to place a telecommunications cabinet and associated pole measuring externally (1.898mL x 1.652mH) and a pole area (height 15m, diameter 0.36m) on the public footpath along St. Assam's Avenue, adjacent to All Financials / Brew Barerista, is hereby refused.

3.2. Planning Authority Reports

3.2.1. Planning Reports

No objection to the proposed telecommunications cabinet. The applicant has submitted photomontages to highlight the likely appearance of the 15m high pole from the surrounds. While the street pole is substantial in height, generally it is considered that its slender appearance will not be overly dominant on the immediate streetscape. The photomontages highlight that the street pole will not be substantially more obtrusive or have a significant visual impact beyond the existing street lights on St. Assam's Park and St. Assam's Avenue from a planning perspective, it is not considered that proposed street pole and cabinet will impinge

upon or result in an obstruction to the public footpath. It is noted that similar cabinet structures are located within the locality,

3.2.2. Other Technical Reports

Transportation Planning Division Report: Recommends Refusal. Report states; 'The site layout plan provided, DU1681-103, does not show the location of the two signs or the entrance to the car park, mentioned above. The information provided indicates a clear footpath width of greater than 2.0m is maintained, which is acceptable to this division. However, given the width and height of the proposed cabinet, and its location adjacent to the entrance of the car park it is considered that it may obstruct the view of vehicles exiting the car park and cause hazard to pedestrians using the public footpath.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

None

5.0 Policy Context

5.1. National Guidelines

- National Broadband Plan, DCENR, 2012. Sets out a strategy to deliver high speed broadband across the State.
- Circular Letter PL07/12 – This circular updates the guidance document and specifically refers to temporary permissions, removal of separation distances from houses and schools, bonds and contributions, planning considerations

related to location and design and health and safety matters, and the establishment of a register / database.

- Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DoE, 1996. Provide guidance on, amongst other things, siting of masts. This includes, in city suburbs, to co-locate telecommunications where possible and to locate new telecommunication masts in industrial or in industrially zoned land or commercial or retail areas. The guidance states that only as a last resort, if these alternatives are not available, should free-standing masts be located in a residential area or beside schools. Further, if such a location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location, with the support structure be kept to the minimum height consistent with effective operation.

5.2. **Development Plan**

5.3. The PA made their assessment having regard to the Dublin City Development Plan 2016 – 2022. However, the City Development Plan has now changed and the pertinent statutory Plan is now the Dublin City Development Plan 2022 – 2028.

5.4. The site is not zoned, as roadways and footpaths are not zoned in the Dublin City Development Plan maps, the adjoining lands to the north are zoned 'Z3' – Neighbourhood Centre and the surrounding area is zoned 'Z1' - Sustainable Residential Neighbourhoods.

5.5. 14.3.2 Unzoned Lands

Certain small areas of land within the city are unzoned or not covered by a specific zoning objective. These lands are illustrated in white on the zoning maps accompanying the plan and usually correspond with the location of the city's roads, bridges, train lines, or other key infrastructure installations. Development proposals in respect of these unzoned lands will be considered in accordance with the policies and objectives of the plan. Regard will also be had to their compatibility with adjacent land-uses and zonings.

5.6. Section 15.18.5 Telecommunications and Digital Connectivity

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 considerations. In terms of the design of free-standing masts, masts and 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 SI48). Applicants must satisfy the City Council that they have made every reasonable effort to share with other operators.

5.7. Natural Heritage Designations

The site is not located within or adjacent to a Natura 2000 site.

5.8. EIA Screening

The proposed development is not of a type that constitutes an EIA project and environmental impact assessment is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A First Party Appeal has been submitted it is summarised as follows:

- From 9 street views scenes between 2009 – 2022 it shows that on 5 occasions, only, one car was parked within the car park area which has capacity for 2 cars maximum.
- The 'car park' would be more accurately described as a driveway.
- Land direct web site indicates that the 'car park' is owned by the residential unit – No. 62A and there is a side gate entrance from the car park to the dwelling.
- There is separate on street parking for users of the commercial centre.
- There is limited visibility from the driveway in either direction as it exists currently.
- The difference between a car park and drive way is significant
- Sightlines from 2 m set back using DMURS criteria can be relied upon and is achievable.
- The appropriate standard is a 2.5m visibility splay based upon a 2m set back. The cabinet and pole are outside this visibility splay.
- The cabinet does not impact on the existing sightlines.
- The proposed street works is an immediate solution to a coverage blackspot in the immediate area.
- The installation of the cabinet and pole would have zero effect on the properly defined sightlines using clear vertical heights for drivers eye level and object heights as set out in the DMURS manual Fig. 4.67
- There is a need for the telecommunications infrastructure to address gaps in the network and to benefit people working from home.

6.2. Applicant Response

- None Received.

6.3. Planning Authority Response

- None Received.

6.4. Observations

- None Received.

6.5. Further Responses

- None Received.

7.0 Assessment

7.1. The proposed development is brought forward under section 254(1) of the Planning and Development Act 2000 (as amended). In their consideration of the development, under section 254(5) of the Act, the Board is required to 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.

7.2. Having regard to these requirements, local and national planning policy, the application details, all other documentation on file and my inspection of the site, I consider that the main issues for this appeal relate to:

- Safety of road users and pedestrians,
- Consistency of the development with regard to the zoning of the site, national and local planning policies in respect of the location of telecommunication development and

- The impact of the development on visual and residential amenity.

7.3. The proposed street pole and antennae would have a height of 15m and a diameter of 360mm. The pole would be galvanised and painted. All cables would run internally. The structure would have a 300mm dish attached to it at a height of c. 12m and 2 no. GPS domes on brackets.

7.4. The proposed cabinet would be green in colour and is proposed adjacent to the street pole. It measures 1.898m wide x 1.652m high x 0.798m deep.

Safety of road users and pedestrians,

7.5. The planning authority refused permission on the grounds of a report from the Transportation Planning Division. The reason for refusal related to impact on sightlines. It was considered that given the width and height of the proposed cabinet, and its location adjacent to the entrance of a car park that it may obstruct the view of vehicles exiting the car park, and cause hazard to pedestrians using the public footpath.

7.6. I note that the site layout plan submitted does not show the location of the two signs or the entrance to the car park / driveway. However, having carried out a site visit and noting the location of the proposed telecommunications cabinet on the footpath located tight against the boundary wall on a bend. I consider that the sightlines from 2 m set back using DMURS criteria as submitted with the appeal documentation is valid and I am of the opinion, given the proposed location of the cabinet, it would not impact upon sightlines exiting the driveway / car park, regard being had to its height and location. I therefore disagree with the PA in this regard.

Consistency of the development with regard to the zoning of the site, national and local planning policies in respect of the location of telecommunication development

7.7. In terms of zoning, the site is located on the public footpath, which has an unclassified designation within the Dublin City Development Plan 2022 – 2028. Lands adjoining immediately to the north are zoned 'Z3', which has an objective 'to provide for and improve neighbourhood facilities'. I note that a 'public service installation' is a permissible use within the Z3 zoning.

7.8. With respect to 'unzoned lands' section 14.3.2 of the city Development Plan states:

'...Development proposals in respect of these unzoned lands will be considered in accordance with the policies and objectives of the plan. Regard will also be had to their compatibility with adjacent land-uses and zonings'.

- 7.9. With respect to telecommunication Section 15.18.5 of the City Development Plan considers, '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 considerations. In terms of the design of free-standing masts, masts and 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 SI48). Applicants must satisfy the City Council that they have made every reasonable effort to share with other operators.'

- 7.10. The site has no specific amenity designation. There are no protected scenic routes proximate. It is not within an ACA or within a SPA/SAC. There are no protected structures in the vicinity.

- 7.11. In city suburbs national planning guidelines also advocate the location of telecommunication masts in industrial or in industrially zoned land or commercial or retail areas. If such sites are not available, the guidance states that only as a last resort, should free-standing masts be located in a residential area. In such circumstances, the guidelines state that sites already developed for utilities should be considered and masts designed for their specific location, with the mast being a

monopole structure and kept to a minimum height consistent with its effective operation.

- 7.12. The appellant argues that Three have exhausted all other options in the area for alternative sites. All of the sites identified are situated outside of the required search ring, which has a diameter of c.150m. Any existing telecoms structures are not located close enough to the demand area. After reviewing the nearest telecoms structures to the proposed site it can be seen that Three Ireland are already live and transmitting on some of these sites. It is contended that only a site at this location at junction of St. Assam's Park and St. Assam's Avenue will be capable of providing the required service levels expected by customers at this area. There are 5 telecommunications sites within 1Km of the subject site the closest being Meteor DN_3688 which is located 309m distant. It is however contended that this site is outside of the required search ring therefore there is no benefit to be gained by adding equipment at this location. I note the Cellnex Smart Streetpole COMREG Map which denotes existing telecommunications structures within a 2Km radius of the site.
- 7.13. The proposed 15m pole solution will provide for optimum coverage as required in an area where there is noted dearth in coverage. It is submitted that given the Covid 19 crisis, the newly acquired practices of wholesale 'working from home' have placed increasing demands on the network as noted by Government in recent Circulars and associated actions. It is also widely accepted that 'working from home' practices will become the new norm for a significant time period into the future. Therefore, the immediate urgency of this type of telecommunications infrastructure to address coverage gaps in the network, in addition to increased demand, is crucial to the ongoing economic and sustainable development of the Country.
- 7.14. Having regard to the foregoing, I would accept that the proposed development is in a densely populated urban area, with limited existing facilities or non-residential facilities for the location of a mast to address the existing blackspot (see attachments). I would also accept that the design of the infrastructure has cognisance to its location and its setting, it will over time appear as normal utility infrastructure.

7.15. I consider the development as proposed to be acceptable in principle at the proposed location.

The impact of the development on visual and residential amenity.

7.16. The planning and development department have no objection to the proposed telecommunications cabinet and pole. Their report notes the photomontages submitted in support of the application. It is considered that while the street pole is substantial in height (15m), its slender appearance would not be overly dominant on the immediate streetscape. It is considered that the street pole would not be substantially more obtrusive or have a significant visual impact beyond the existing streetlights on St. Assam's Park and St. Assam's Avenue.

7.17. With respect to the cabinet, I agree that it is of standard telecommunications structure and scale. And that, in-itself, it would not present any concerns with regard to visual amenity. The pavement at this location is stated as 3.5 m wide and the cabinet is 0.79 m deep and would not impact upon movement of pedestrian/ buggies / wheelchairs when in place. There is over 2m separation distance between the existing street furniture (yield and roundabout signs) and the proposed cabinet thereby allowing sufficient clearance for pedestrians.

7.18. Section 15.18.5 of the new city development plan in relation to siting, design and visual amenity of telecommunications infrastructure states 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 considerations..... 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.

7.19. I have reviewed the anticipated visual impact assessment, / 'visual reference points' submitted by the applicant which includes 8 photomontages of the proposed development from Saint Assam's Park Road, St. Assam's Avenue, St. Assam's Park and St. Assam's Avenue. The proposed slimline pole would be of neutral sky grey,

which will reflect the skyline and therefore assimilate with regards to its colour/texture and therefore complies with best practice of siting and design.

- 7.20. In my view, telecommunications equipment is crucial functional infrastructure, which contributes to successful place making, in a modern day, functional public realm. While the structure will be visible, especially, as one observes the structure in middle to near distance, overall, having regard to the scale of the proposed development, there would be no negative impact on the visual amenities of the area with only slight visual impacts being perceived. I do not consider the proposed development will unduly impact on the skyline or the streetscape when viewed from various vantage points. Cognisance is had to similar tall structures in the landscape (lighting poles) and roadside trees.
- 7.21. Should the Board be minded to grant permission, I am of the view that a condition limiting exempt development provisions should be included in any grant of permission. This in my view is warranted considering the location of the infrastructure in a residential area as opposed to an industrial/employment area, where the intensification of antennae on the existing support structure above what is hereby permitted could have the potential to negatively impact on the visual amenity of the area.
- 7.22. The applicant considers the proposal accords with the proper planning and sustainable development of the area. Accords with the relevant provisions of the Development Plan. Does not detract from the convenience and safety of road users including pedestrians. Assimilates within the existing pattern of appliances, apparatuses, or other structures along the public road.
- 7.23. I note circular letter PL07/12 states planning considerations in the assessment of telecommunications infrastructure should be related to location and design and not health and safety matters. In my view the location of the slimline Alpha 2 model telecommunications infrastructure within a residential area does not give rise to any issues in terms of residential amenity.

Appropriate Assessment

- 7.24. Having regard to the minor nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. It is recommended that permission be granted.

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Dublin City Development Plan 2022 - 2028, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, or of property in the area, or give rise to a traffic or pedestrian hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. 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.

Reason: In the interest of clarity.

2. Notwithstanding the provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, the telecommunication structures shall not be altered and no additional apparatus shall be attached, without a prior grant of planning permission.

Reason: To clarify the nature and extend of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations.

Fiona Fair
Senior Planning Inspector

07.03. 2023