



An  
Bord  
Pleanála

# Inspector's Report

## ABP-314137-22

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<b>Development</b>	Section 254 Licence for Telestructure Pole
<b>Location</b>	St. Patrick's Road, Turner's Cross, Cork City.
<b>Planning Authority</b>	Cork City Council
<b>Planning Authority Reg. Ref.</b>	T21.013
<b>Applicant(s)</b>	On Tower Ireland Limited.
<b>Type of Application</b>	Section 254 Licence.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Dan Boyle
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24.05.2023
<b>Inspector</b>	Fiona Fair

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## 1.0 Site Location and Description

- 1.1.1. The site is situated on a wide footpath on St. Patricks Road to the south of Cork City Centre. It is located just east of Turners Cross, which is the junction of Deerpark, Friars Walk and St. Patricks Road. There are numerous public lampposts and electricity poles in the immediate vicinity. The subject site is surrounded to the north, south, east and west by housing and some commercial buildings.
- 1.1.2. As is evident from Google Streetview (date of capture July 2022) and from my site visit (24th May 2023) there is an existing telecommunications streetpole, similar to that proposed and green ground equipment cabinet currently in-situ approx. 6m to the west of the subject appeal site, closer to Turner's Cross and located tight against the boundary wall of the Hairdressers 'KiwiCutz'.

## 2.0 Proposed Development

- 2.1.1. Section 254 Licence for Telestructure Pole (15m Alpha 3.0 streetpole solution with 1 no. 2.75m Alpha antennae and 1 no. 3.0 dish / Antennae and ground equipment cabinet (1.898m wide x 1.652m high x 0.798m deep)).
- 2.1.2. It is submitted by the applicants agent that:

"There is a recently constructed EIR streetpole located approx. 8.5m east of the subject site". (Inspectors Note: I note this should state 'west' of the subject appeal site and from my calculations its approx. 6m distant)

"The HSE building opposite, on the south side of Patrick's Road, c. 16 m from the site contains a telecommunications mast over which this new streetpole will replace".

## 3.0 Planning Authority Decision

- 3.1.1. Decision

Grant temporary 3 year permission subject to 10 number conditions.

C2. Restricts the licence to 3 years from the date of grant of permission of the licence.

C3. Restricts further antennae or other equipment being attached to the pole.

C9. the applicant shall notify the PA of any change of ownership, transfer to a new operator or any subsequent agreements to share the telecommunications street pole.

C10. In the event of obsolescence, the structures shall be removed.

### **Planning Authority Reports**

#### **3.1.2. Planning Reports**

- It is considered that subject to compliance with the conditions set out in the schedule, that the proposed development would be acceptable in terms of traffic safety and convenience and would therefore be in accordance with the proper planning and development of the area.

#### **3.1.3. Other Technical Reports**

Roads Operational Division: Grant recommended subject to conditions.

#### **3.1.4. Prescribed Bodies**

None

#### **3.1.5. Third Party Observations**

None

### **4.0 Planning History**

None relevant.

## 5.0 Policy Context

### 5.1. National Guidelines

- Planning and Development Act 2000, as amended. The development is considered under Section 254(1) (e) (e) of the Planning and Development Act 2000 as amended.
- 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.

#### 5.1.1. Development Plan

The application was considered and determined by the planning authority under the previous development plan for the area, namely the Cork County Development Plan 2014. However, a new Development Plan was adopted on the 25<sup>th</sup> of April 2022 and

The subject site is zoned 'Z01' – Sustainable Residential Neighbourhoods, with the Zoning Objective: 'To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses'.

#### ZO 1.1

The provision and protection of residential uses and residential amenity is a central objective of this zoning. This zone covers large areas of Cork City's built-up area, including inner-city and outer suburban neighbourhoods. While they are predominantly residential in character these areas are not homogenous in terms of land uses and include a mix of uses. The vision for sustainable residential development in Cork City is one of sustainable residential neighbourhoods where a range of residential accommodation, open space, local services and community facilities are available within easy reach of residents.

#### Section 9.23 Information and Communications Technology (ICT) and Telecommunications

Information and Communications Technology (ICT) and digital connectivity are key drivers of the social and economic development of the city.

This section focuses primarily on the infrastructure required to support the delivery of an innovative and efficient ICT system. It supports the rollout of the National Broadband Plan (which aims to deliver high-speed broadband services to all businesses and households in Ireland), the enhancement of international fibre communications links and where possible the promotion of Cork as a location for ICT / Digital Society innovations.

#### Section 9.26 Telecommunications

An efficient telecommunications system is important in the development of the economy. Cork City Council will have regard to the guidelines issued by the Department of the Environment, Heritage and Local Government, 'Planning Guidelines for Telecommunications Antennae and Support Structures' (1996) and Circular Letter PL 07/12. The assessment of individual proposals will be governed by the guidelines and the controls scheduled in the Development Management

section of this plan.

#### Section 11.253 Telecommunications Structures

The assessment of any applications for telecommunications antennae and support structures shall have regard to the following:

1. Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DECLG, 1996 and Circular Letter PI 07/12 published by the DECLG in 2012.
2. The co-location of existing structures is encouraged and the construction of any new antennae or structure will only be considered when co-location is not a feasible option. Any proposal for a new structure or antennae should detail the requirements for the infrastructure and if so, why co-location is not feasible.
3. In identifying a suitable location for telecommunications structures consideration shall be given to the potential visual impact of the development and any sensitivities in the area in which the proposed structure is to be located. A VIA of the development incl photomontages, may be required...

I Note ZO14 Public Infrastructure and Utilities states:

#### ZO 14.1

This zone covers the provision of public and utilities infrastructure, which can include park and ride facilities, and various other transport, water, drainage, emergency services, electricity, gas, telecommunications, maintenance purposes and other utility facilities.

#### 5.1.2. **Natural Heritage Designations**

- 5.1.3. The site is not situated within any European Sites. There are no designated European Sites in close proximity to the site.

#### 5.1.4. **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**

### **6.1.1. Grounds of Appeal**

A Third Party Appeal has been submitted by Dan Boyle on behalf of Mick Finn, Sean Boyle, Shane O'Callaghan, Paudie Dineen, Fiona Kerins on the followings grounds:

- All of the appellants are local councillors.
- Nearby off street locations exist close to this area and no effort seems to be made to seek licences there.
- No sufficient investigation of the location was undertaken as it would have revealed other street furniture and installations in the area impeding pedestrian movement and restricting sightlines of vehicle traffic at a very busy intersection.
- No effort seems to have been made to share or to add to existing telecommunications infrastructure in the area and
- The administration of licences has been flawed with different addresses being given for the same location.

### **6.1.2. Applicant Response**

The First Party have submitted a response prepared by David Mulcahy on behalf of On Tower Ireland Limited. It is summarised as follows:

- The appeal does not outline any alternative street location's so it is not possible to comment on same.
- The subject site is considered to be the most appropriate to address the telecommunications blackspot in this area.
- Refer the Board to the planning report which accompanied the application.
- Sharing / adding to the existing infrastructure was considered and discounted as not to be feasible.
- The proposal will result in the removal / replacement of an existing unsightly roof-top telecommunications structure.



- The technology does not yet exist for different operators to share the same streetpole but this is being worked on and is understood to be imminent.
- A temporary permission of 3 years is invited, and it is submitted that at this stage (post 3 years) the applicant should be in a position to replace one of the two streetpoles in this area with one shared streetpole, or the Council can consider the impact of two streetpoles at that stage if the technology has not advanced as expected.
- It is not clear exactly what the third party is referring to with respect to different addresses. The address of the subject application and the accompanying plans and drawings make it clear where the proposed development is to be located.

#### 6.1.3. **Planning Authority Response**

- None received.

#### 6.1.4. **Observations**

- None received.

#### 6.1.5. **Further Responses**

- None Relevant.

## 7.0 **Assessment**

### **Introduction:**

- 7.1.1. The proposed street pole and antennae would have a height of 15m and a diameter of 300mm. The pole would be galvanised and painted. All cables would run internally. The structure would have 1 no. 2.75m and 1 no. 300mm dish attached to it.
- 7.1.2. 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.
- 7.1.3. 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.

7.1.4. 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.**

**Safety of road users and pedestrians,**

7.1.5. The planning authority granted permission. The report from the roads operations division considers the proposal acceptable. It states: 'The location of the proposed development when next to or within a public footpath should retain a minimum of 1,800mm of unobstructed footpath. Having regard to the aforementioned, there is no roads related reasons to refuse this application...'

7.1.6. I note the third party concern with respect to impeding pedestrian movement and restricting sightlines. However, having reviewed the plans and drawings submitted and having carried out a site visit. I note the generous width of the footpath (some 5.5m), the location of the proposed telecommunications cabinet located tight against the boundary wall. I am of the opinion, given the proposed location of the cabinet, and width of the footpath it would not impact upon sightlines exiting the driveway to the east, regard being had to its height and location. I therefore agree with the PA in this regard.

7.1.7. I do not recommend that permission be refused on grounds of traffic hazard or pedestrian impediment or hazard.

**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**

7.1.8. In terms of zoning, the site is located on the public footpath, which is Zoned 'Z01' in the Cork City Development Plan 2022 – 2028, with the Zoning Objective: 'To protect and provide for residential uses and amenities, local services and community, institutional, educational and civic uses'.

7.1.9. I note that a 'public service installation' or 'telecommunications structure / masts' are not referred to as 'permitted' uses within the Z01 zoning, albeit there is no prescriptive list of 'Permitted in Principle' uses, 'Open for consideration' or 'Not Permitted' uses set out in the Plan. With respect to 'permitted uses' the plan states:

Section 12.4

"While the primary objective of each land use zoning is clearly stated, the various uses listed are intended as a general guide and are not an exhaustive list. Land uses open for consideration may be acceptable where the Planning Authority is satisfied that:

- they would not have a detrimental impact on the primary land use zoning objective;
- they would be consistent with the relevant objectives and criteria set out in this Plan; and
- there would not be any significant adverse impacts on-site or on the surrounding environment".

Section 12.5 goes on to state:

"In exceptional circumstances there may be uses that are not referenced in this Plan; these will be considered on their own merits in accordance with the primary land use zoning objective concerned."

Z01.1 of the Cork CDP 2022 – 2028 states:

“...The vision for sustainable residential development in Cork City is one of sustainable residential neighbourhoods where a range of residential accommodation, open space, local services and community facilities are available within easy reach of residents.

#### ZO 1.2

“Development in this zone should generally respect the character and scale of the neighbourhood in which it is situated. Development that does not support the primary objective of this zone will be resisted”.

7.1.10. With respect to telecommunication Section 11.253 Telecommunications Structures states:

“The assessment of any applications for telecommunications antennae and support structures shall have regard to the following:

1. Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DECLG, 1996 and Circular Letter PI 07/12 published by the DECLG in 2012.

2. The co-location of existing structures is encouraged and the construction of any new antennae or structure will only be considered when co-location is not a feasible option. Any proposal for a new structure or antennae should detail the requirements for the infrastructure and if so, why co-location is not feasible.

3. In identifying a suitable location for telecommunications structures consideration shall be given to the potential visual impact of the development and any sensitivities in the area in which the proposed structure is to be located. A VIA of the development incl photomontages, may be required...”

7.2. I note the concerns raised by third parties with respect to co-location. There is an existing telecommunications structure and cabinet antennae located some 6 m to the west of the proposed telecommunications infrastructure.

7.2.1. In city suburbs national planning guidelines 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.

- 7.2.2. The first party argues that they have exhausted all other options in the area for alternative sites. 5 alternative sites were assessed and 4 of the sites identified are considered to be situated outside of the required search ring, which has a diameter of c.500m. It is contended that only a new site to replace the existing antennae on the HSE building across Saint Patrick's Road approx. 16m from the subject site will be capable of providing the required service levels expected by customers in this area.
- 7.2.3. The alternative 'locations examined by Three' (see section 3.2 Technical Justification of the Planning Consultants Report which accompanies the application) do not reference the existing mast and telecommunications infrastructure located some 6 m to the west of the subject site. The applicants response to the appeal argues that, sharing / adding to the existing infrastructure was considered and discounted as not to be feasible. The proposal will result in the removal / replacement of an existing unsightly roof-top telecommunications structure. It is submitted that the technology does not yet exist for different operators to share the same streetpole but this is being worked on and is understood to be imminent. A temporary permission of 3 years is invited, and it is submitted that at this stage (post 3 years) the applicant should be in a position to replace one of the two streetpoles in this area with one shared streetpole, or the Council can consider the impact of two streetpoles at that stage if the technology has not advanced as expected.
- 7.2.4. I agree that no effort seems to have been made to share or to add to existing telecommunications infrastructure in the immediate area. I note that Fig No. 6 Commreg Map of closest existing sites in the general area does not include the existing telecommunications structure and cabinet located on the public footpath some 6 m to the west of the site.
- 7.2.5. It is submitted that 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.

- 7.2.6. Regard is had to the applicant's argument that there is precedent for locating two or more streetworks in close proximity, in Northern Ireland, the UK and the US. Particularly in search rings in residential areas with very limited opportunity for deployment.
- 7.2.7. Having regard to the foregoing, while I accept the argument that the existing site is unable to upgrade and the proposed new telecommunications mast would be an improvement visually I am not convinced that co-location with the existing mast located some 6 m to the east has been satisfactorily assessed. No technical explanation or evidence has been submitted to support the statement that the technology does not yet exist for different operators to share the same streetpole. The technical justification for alternative locations examined does not refer to this infrastructure and or give details / discounted reason(s) to discount co location and or mast sharing.
- 7.2.8. In the absence of this supporting evidence, I do not consider that the applicant has therefore adequately demonstrated that the proposed development is a 'last resort'. I consider the development as proposed to be unacceptable in principle at the proposed location.

#### **The impact of the development on visual and residential amenity.**

- 7.2.9. The planning department have no objection to the proposed telecommunications cabinet and pole. Their report notes that the structure is tall and will be visible, it is considered that there are a number of lamp standards alongside and nearby which would further assist in reducing the impacts of the proposed structure. There is a need to provide continued and improved connectivity to all areas in the interests of

evolving work patterns and social conditions, both during and after the Covid – 19 pandemic.

- 7.2.10. I note the photomontages submitted in support of the application. I am of the opinion 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. Patricks Road.
- 7.2.11. 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 some 5.5m wide and the cabinet is 0.798 m deep and would not impact upon movement of pedestrian/ buggies / wheelchairs when in place. There is over 4m separation distance between the edge of the footpath and the proposed cabinet thereby allowing sufficient clearance for pedestrians.
- 7.2.12. Section 11.253 Telecommunications Structures of the new city development plan, set out in the preceding section of this report highlights that in identifying a suitable location for telecommunications structures consideration shall be given to the potential visual impact of the development and any sensitivities in the area in which the proposed structure is to be located.
- 7.2.13. 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.
- 7.2.14. 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 Patricks Road, Friars Walk and Deerpark. 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.
- 7.2.15. 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). I have some concern, as set out in the preceding section, with the presence of the existing telecommunications pole and cabinet located 6 m to the east. Two poles and cabinets at this location while they may not give rise to any material diminution in the visual amenity of the area are a cause of concern to the residential amenity of this area.

- 7.2.16. Given my concerns with respect to co-location and the City Development plan policy that the construction of any new antennae or structure will only be considered when co-location is not a feasible option. Also given the proposal for a new structure or antennae has not detailed the requirements for the infrastructure and if so, why co-location is not feasible. I recommend that permission is refused. Should the Board be minded to grant permission, I am of the view that a temporary permission should be considered and 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.
- 7.2.17. The applicant considers the proposal is not misleading in terms of address of the structure, its location on the ground and its overall design. I agree that the location of the proposal is easily identifiable, and the plans and drawings submitted are in accordance with requirements. I see no good reason to refuse permission on grounds of inaccuracy or misleading information.



## **Appropriate Assessment**

- 7.2.18. 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**

- 8.1.1. I recommend that a licence be refused for the proposed development.

## **9.0 Reasons and Considerations**

- 9.1.1. Having regard to the government's guidelines on Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DoE, 1996, policies of the Cork City Development Plan 2022 - 2028, the location of the proposed development approx. 6m distant from an existing telecommunications structure and associated cabinet, located to the west of the application site, it is considered that insufficient technical justification and evidence has been provided in respect of alternative sites, to support the location of the development. Section 11.253 Telecommunications Structures of the City Development plan 2022 – 2028 states: "The co-location of existing structures is encouraged and the construction of any new antennae or structure will only be considered when co-location is not a feasible option. Any proposal for a new structure or antennae should detail the requirements for the infrastructure and if so, why co-location is not feasible". It is considered, therefore, that the proposed development would be contrary to the government's guidelines, and to City Development Plan policy and to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Fiona Fair

Senior Planning Inspector

29.05.2023