



An
Bord
Pleanála

Inspector's Report

ABP-314637-22

Development	Street pole solution to address identified mobile and mobile broadband coverage blackspots
Location	Public footpath along Wendell Avenue, Carrickhill, Portmarnock, Co. Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	S254/03/22
Applicant(s)	Cignal Infrastructure Ltd.
Type of Application	Licensing of appliances etc. (s. 254)
Planning Authority Decision	Refuse Licence
Type of Appeal	First Party (s. 254)
Appellant(s)	Cignal Infrastructure Ltd.
Observer(s)	None
Date of Site Inspection	30 th June 2023
Inspector	Philip Maguire

1.0 Site Location and Description

- 1.1. The appeal site is located along and east of a residential link road between Wendell Avenue and Carrickhill Rise in Portmarnock, Co. Dublin, where a 30kph speed limit applies. The link road provides access two houses and a Dunnes Stores carpark, and the appeal site lies c. 20m southwest of its junction with Wendell Avenue. Portmarnock town centre is 1.50km south, southwest of the appeal site along the Strand Road (R106). The wider surrounding area is characterised by residential development.
- 1.2. The appeal site is flat and consists of a small section of wide public footpath adjacent to, and just north of, a public litter bin and immediately east of a low wall which defines boundary of the adjacent car park. The footpath narrows just north of the appeal site where it incorporates a grass margin and a 'Yield' sign. Beyond that lies a post box, some street trees and a bus shelter, with more street trees and lamp standards on the opposite side of the junction. Grass margins with street trees, lamp standards, parking bollards, street cabinets and road signs flank the link road to the south of the site.

2.0 Proposed Development

- 2.1. A Section 254 licence is sought for telecommunications infrastructure consisting of a 15m high freestanding galvanised and painted monopole structure including 1 no. 2.75m antenna, internal cabling, external dish, operator's cabinet and ancillary works.
- 2.2. The monopole (street pole) would have a uniform thickness of 360mm. The dish would be 300mm in diameter. The operator's cabinet would be 1.898m wide, 1.652m high and 0.798m deep, and green in colour. The stated purpose of the proposed structure is to address mobile and mobile broadband coverage blackspots. The duration of licence sought is 5 years, indicated as June 2022 to June 2027 in the application form.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to **refuse to licence** the proposed development on 16th August 2022 for the following reason:

1. *Having regard to the nature and height of the proposed communication infrastructure and its proximity to existing residential properties. It is considered that the proposed mast in combination with other similar developments in the locality would result in a proliferation of street works in the area, resulting in an unacceptable cumulative detrimental visual impact to the existing visual amenities of the area that would be contrary to the objectives of the Fingal Development Plan 2017-2023, in particular to Objectives IT07 and IT08 and would be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report (16/08/22): Basis for the Planning Authority decision. In terms of principle, it notes the site is un-zoned with a 'Local Centre' zoning to the west and a predominant 'Residential' zoning in the wider area. It considers the applicant's submission in respect of Objectives DMS143, DMS144 and DMS145, details of 6 no. sites within the target area and alternative sites within a 2km radius but notes that co-location at these sites was discounted on the basis of being outside of the search area. It accepts the rationale for the proposed development and notes the visual assessment put forward by the applicant, albeit critical of its accuracy. It notes the reduction in footpath width to 1.7m and the height of the structure of 15m in a busy residential area where the public footpath is in constant use. It considers the mast would be visually obtrusive and negatively impact on the visual amenities of the area with an additional cabinet adding to existing clutter. It notes that there is a concurrent application for a street pole within c. 20m of the site and considers that this would lead to a proliferation of street works resulting in an unacceptable cumulative impact on visual amenities. It notes that no AA/EIA issues arise. Finally, it concludes that the proposed development would be contrary to Objectives IT07 and IT08 on the basis of cumulative impact on visual amenities.

3.2.2. Other Technical Reports

- Roads (10/06/22): No objection subject to condition.
- Water (12/05/22): No objection.

3.3. Prescribed Bodies

- Irish Water (17/05/22): No objection subject to condition.

4.0 Planning History

4.1.1. Appeal site:

None.

4.1.2. Adjacent site(s):

Wendell Avenue (c. 25m north, northeast)

PA ref. S254/07/22: Licence **refused** in August 2022 for a 15m high telecoms street pole etc. The decision is currently on appeal under **ABP-314492-22**.

4.1.3. Other relevant history:

Dunnes Stores, Wendell Avenue

PA ref. F22A/0093: Permission **granted on appeal** (ABP-313536-22) in March 2023 for a change of use of back of house/staff welfare areas on the ground floor to form a new in-shop post office and small first floor extension to provide staff welfare area.

PA ref. F17A/0039: Permission **granted** in October 2017 for minor demolition works, extension and modification of Dunnes Stores supermarket, reconfiguration of existing carpark/yard and all associated site works.

5.0 Policy Context

5.1. Fingal Development Plan 2023-2029

5.1.1. The current Development Plan came into effect on 5th April 2023. The Planning Authority decision of 16th August 2022 was made under the previous Plan for the period 2017-2023. This appeal shall be determined under the current Plan.

5.1.2. The appeal site is un-zoned and lies just east of a 'LC' Local Centre zoning with an objective to *'Protect, provide for and/or improve local centre facilities'* and where telecoms structures are permitted in principle. The wider area predominantly zoned 'RS' Residential with an objective to *'Provide for residential development and protect*

and improve residential amenity' and where telecoms are neither permitted in principle nor not permitted.

5.1.3. The main policies and objectives relevant to the proposal are set out under Chapter 6 (Connectivity and Movement), Chapter 11 (Infrastructure and Utilities) and Chapter 14 (Development Management Standards) of the Written Statement.

5.1.4. The following sections are relevant to the issues raised in this appeal:

- 6.5.10.2 – Regional/Local Roads
- 6.5.10.3 – Roads and Streets Design
- 11.8.1 – National Broadband Plan
- 11.8.4 – Telecommunications
- 11.8.5 – Ducting and Access to Fingal County Council Assets
- 14.20.11.1 – Utility Facilities

5.1.5. I consider the following policies and objectives particularly relevant:

Policy IUP36 Facilitate the coordinated provision of telecommunications / digital connectivity infrastructure at appropriate locations throughout the County and extension of telecoms infrastructure including broadband connectivity as a means of improving economic competitiveness and enabling more flexible work practices.

Objective IUO52 Ensure that applications made in relation to the provision of overground telecoms infrastructure, including planning applications and Section 254 licence applications, take into consideration and demonstrate compliance with the *Guidance on the Potential Location of Overground Telecommunications Infrastructure on Public Roads 2015*.

Objective IUO53 Ensure a high-quality design of masts, towers, antennae and other such telecommunications infrastructure in the interests of visual amenity and the protection of sensitive landscapes in the County.

5.2. Guidance on the Potential Location of Overground Telecoms Infrastructure

- 5.2.1. The Guidance on the Potential Location of Overground Telecommunications Infrastructure on Public Roads (DCENR, 2015) addresses the engineering appropriateness of siting telecoms equipment on the road network and considers specific locations from a high-level viewpoint. Section 5.1 notes that the safety of road users is paramount when considering site suitability. It states that the key determinant in any decision would be to ascertain that no adverse impact on road user safety would arise or restrictions on driver visibility or obstruction of footpaths would be caused etc.
- 5.2.2. Section 5.1 also notes that any telecoms infrastructure should be erected at a safe location outside of the 'clear zone' which it describes as 'the total width of traversable land on either side of the road/carrageaway, within the road boundary, which is to be kept clear of unprotected hazards'. This area is available for use by errant vehicles.
- 5.2.3. Section 5.3 notes that DMURS applies in areas with a speed limit of 60kph or less.
- 5.2.4. A consideration of opportunities to facilitate telecoms infrastructure on the road network is set out in Table A. In terms of urban roads, it states that opportunities are generally limited to locations where a wide verge or footpath allows the accommodation of small cabinets/antennae and/or the erection of stand-alone poles.

5.3. Design Manual for Urban Roads and Streets (DMURS)

- 5.3.1. Guidance relating to the design of urban roads and streets is set out in DMURS (DTTS and DHPLG, 2013, updated May 2019). Section 4.3.1 illustrates the space needed for pedestrians to comfortably pass each other with reference to the anticipated levels of activity. The minimum space for two people to pass comfortably in areas of low pedestrian activity is 1.8m. The desirable space for two people to pass comfortably in areas of low to moderate pedestrian activity is 2.5m. The minimum space for small groups to pass comfortably in areas of moderate to high pedestrian activity is 3.0m.

5.4. Telecommunications Guidelines

- 5.4.1. The Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (DELG, July 1996) aims to provide technical information in relation to the

installation of base stations and other telecoms equipment and offer general guidance so that the environmental impact is minimised, and a consistent approach adopted.

- 5.4.2. Section 4.3 of the Guidelines refers to visual impact and notes that only as a last resort, and if the alternatives are either unavailable or unsuitable, should free-standing masts be located in residential areas or beside schools. 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. It also notes that the proposed structure should be kept to the minimum height consistent with effective operation and should be monopole rather than a latticed structure.
- 5.4.3. Section 4.5 of the Guidelines states the sharing of antennae support structures will normally reduce the visual impact on the landscape and places an onus on the operators to demonstrate that they have made a reasonable effort to share. It notes that where it is not possible to share a support structure, the sharing of sites or adjacent sites should be encouraged so that masts and antennae may be clustered. It states that the use of the same structure or building by competing operators in urban or suburban areas will almost always improve the situation.
- 5.4.4. Section 4.6 of the Guidelines notes that ground-mounted single poles do not generally require fencing off the site or anti-climbing devices etc. It also states that it is unlikely that accessing the site will give rise to traffic hazards as maintenance visits should not be more than quarterly. During the construction period, depending on the location of the site, special precautions may have to be taken in relation to traffic.

5.5. **Circular Letters**

- 5.5.1. Circular Letter PL 07/12 (DECLG, October 2012) revised elements of the Telecoms Guidelines. Section 2.2 advises that only in exceptional circumstances, where particular site or environmental conditions apply, should a permission issue with conditions limiting its life. Section 2.3 advises that planning authorities should avoid including minimum separation distances between masts or schools and houses in their Development Plans. Section 2.4 advises that future permissions should simply include a condition stating that when the structure is no longer required it should be demolished, removed and the site re-instated at the operators' expense, as opposed to conditioning a security bond in respect of removal. Section 2.6 reiterates the advice

in the Guidelines in that the planning authorities should not include monitoring arrangements as part of planning conditions nor determine planning applications on health grounds. These are regulated by other codes and such matters should not be additionally regulated by the planning process.

- 5.5.2. Circular Letter PL 11/2020 (DHLGH, December 2020) reminds planning authorities that whilst a s. 254 licence is required for works specified in s. 254(1) of the Planning and Development Act 2000 (as amended), including overground electronic communications infrastructure, any development carried out in accordance with a licence shall be exempted development for the purposes of the Act under s. 254(7). The Circular also notes that exemptions for telecoms infrastructure along public roads do not apply where the proposed development is in a sensitive area where there is a requirement for Appropriate Assessment; or where the proposal would endanger public safety by reason of traffic hazard or obstruction of road users.

5.6. Natural Heritage Designations

- 5.6.1. None relevant.

5.7. EIA Screening

- 5.7.1. The proposed development is not a class of development set out in Schedule 5, Part 1 or Part 2 of the Planning and Development Regulation 2001 (as amended) and therefore no preliminary examination is required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A 1st Party appeal has been lodged by David Mulcahy Planning Consultants Ltd. on behalf of the applicant, Signal Infrastructure Ltd.
- 6.1.2. The main grounds of appeal can be summarised as follows:
- The applicant notes that the adjacent application is also currently on appeal (ABP-314492-22) and accepts that cumulative visual impact of the two street poles in close proximity is a relevant planning consideration.

- It is stated that the slender street poles are generally quite innocuous in the streetscape and tend not to generate concerns amongst the general public, particularly where no dwellings directly face them, and given their location at the edge of an established commercial area, their visual sensitivity is further reduced.
- It is submitted that the other street pole on appeal only caters for two operators and the subject applicant is not involved, hence the need for the application as all operators need to provide sufficient coverage for their own respective service.
- It is indicated that the site was chosen because it is at the rear of the shopping centre, avoids underground services/trees, is on a less prominent road and has not direct views from any of the nearby dwellings. The applicant notes that the site of the concurrent appeal was ruled out as the subject site was deemed preferable for these reasons.
- It is noted that the Planner's Report refers to the design as "a simple and contemporary approach" and rejects that it conflicts with Objectives IT07 and IT08.
- In respect of the comments in the Planner's Report regarding the accuracy of the visual assessment, it is submitted that the antenna is shrouded within the street pole and the dish is not typically shown on the renderings and this is a minor element in terms of visual impact.
- It is submitted that a 15m high street pole is required to ensure that there is no interference with the signal from obstacles such as buildings, trees etc.
- It is stated that the comments in the Planner's Report regarding existing clutter are unclear and non-specific. It is noted that cabinets are a standard element of street poles and would be considered to be minor in terms of visual impact, and this did not form part of the refusal reason.
- It is submitted that the proposed street pole is urgently needed and will not have a material visual impact on this area, and therefore request the Board to overturn the decision of the Council and grant the licence.
- The applicant is open to a condition for a temporary licence to allow for future technological developments that would facilitate all operators on one pole.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response can be summarised as follows:

- The application was assessed against the policies and objectives of the Fingal County Development Plan 2017-2023, including zoning objective, and existing government policy and guidelines as well as impact on adjoining neighbours and the character of the area.
- The proposal is c. 15m from the nearest dwelling in a very prominent and busy location. The concurrent appeal cannot cater for the subject applicant and there will be a number of these structures in close proximity to each other and residential properties if both are granted, given rise to a proliferation of such structures.
- This site cannot support the development irrespective of the case made by the applicant.
- The Board is requested to uphold the decision of the Planning Authority.
- Provision should be made for a financial contribution in the event that the appeal is successful.

7.0 Assessment

7.1. Preliminary Points

7.1.1. The Planning Authority's sole refusal reason relates to an unacceptable impact on visual amenities as a result of proliferation of street works in the area. This, the Planning Authority claims, would be contrary to Objectives IT07 and IT08 of the Fingal Development Plan 2017-2023 relating to best practice in siting and design, and high-quality design in the interests of visual amenity and protection of sensitive landscapes, respectively. The current Development Plan came into effect on 5th April 2023 and a similar policy approach is reflected in Objective IUO53, as cited earlier in this report.

7.1.2. Having examined the licence application details and all other documentation on the appeal file, including the appeal submission, and inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues in this licence appeal are those raised in the grounds of appeal. The issues can be addressed under the following headings:

- Visual Amenity
- Road Safety – *New Issue*
- Appropriate Assessment

7.2. Visual Amenity

- 7.2.1. In terms of siting, ComReg’s interactive mapping system indicates that 4G coverage in the area is generally ‘good’ for the subject service provider (‘Three’), although I note that coverage drops to ‘fair’ for some residential areas to the north around Limetree Avenue and Ashley Rise and to the south in the vicinity of Portmarnock Drive and Carrickhill Heights. I have also reviewed the 4G and 5G coverage for other providers where coverage is ‘fair’ and drop-outs are possible. On balance, I accept that there is a need for improved mobile and wireless broadband coverage in this area. This is also suggested in the existing and predicted indoor coverage maps submitted with the application, but I am unable to verify their modelling and do not afford them any weight. Overall, I accept that local and national policy seeks to support and encourage new telecoms infrastructure in such circumstances, as submitted by the applicant.
- 7.2.2. In terms of design, the applicant justifies the proposed height on the basis of obstacle clearance that would otherwise cause network interference. In this regard, I note that the appeal site is within 7m of the Dunnes Stores building, the nearest wall of which is c. 8.4m high. There are a number of mature trees in the area and the prevailing height of housing along Wendell Avenue and Carrickhill Rise is two-storey. Whilst I accept that the proposed structure would be more visible than adjacent trees and lamp standards, I consider that critical views would be generally limited and absorbed within this receiving environment. I also note that the road alignment along Wendell Avenue would impede many views travelling in both directions. On balance, I do not consider that the proposed development would have an adverse impact on the visual amenities of the area, alone or in combination with other existing street works in the vicinity.
- 7.2.3. Finally, in terms of co-location, I note that alternative sites were examined and discounted as they were unable to provide coverage of the subject area. I also note that the proposed street pole, to the north, northeast of the appeal site, would have capacity for co-location but is itself on appeal (ABP-314492-22) and this is determinative, in my opinion. Moreover, both parties submit that the other street pole only caters for two operators, and the applicant is not involved. Having reviewed the

licence application, appeal submission, and given the deficit of network coverage across operators, I am satisfied that the proposal is justified from a visual perspective.

7.3. **Road Safety – New Issue**

- 7.3.1. The Planning Authority states that the footpath has an existing width of c. 2.5m and the proposal would reduce this width down to c. 1.7m locally over a length of c. 1.9m. This is short of the minimum DMURS standard for two people to pass comfortably in areas of low pedestrian activity i.e. 1.8m. This would be further reduced to c. 1m when the operator cabinet doors are open for maintenance etc., infrequent as this may be.
- 7.3.2. During the course of the site inspection, I measured the footpath width as 2.6m in the vicinity of the proposed operator's cabinet and consider that the footpath would be reduced to 1.8m over a length of c. 1.9m and within the DMURS standard. Whilst this is a new issue, and the Board may wish to seek the views of the parties, it does not impact on my overall recommendation, and I am fully satisfied that the proposal would not endanger public safety by reason of traffic hazard in this low-speed environment.

7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development, which is for telecoms infrastructure consisting of a 15m high street pole and operator cabinet in an established and serviced urban area, the distance from the nearest European site, no Appropriate Assessment issues arise. Therefore, 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. I recommend that a section 254 licence be **granted** for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

- 9.1. Having regard to the provisions of the section 254 of the Planning and Development Act 2000 (as amended), the Fingal Development Plan 2023-2029, and the Telecommunications Antennae and Support Structures Guidelines (1996), as amended/updated by Circular Letters PL 07/12 and PL11/2020, it is considered that,

subject to compliance with the conditions set out below, the proposed development would not detract from the visual amenities of the area or conflict with pedestrian movements giving rise to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the proposed colour scheme for the telecommunications structure and ancillary structures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of the visual amenities of the area.</p>
3.	<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 interests of public safety.</p>

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.

Philip Maguire

Planning Inspector

7th July 2023