



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315098-22

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<b>Development</b>	Section 254 licence application for a telecommunication signal pole and cabinet and associated works.
<b>Location</b>	Junction of Springdale Road and Edenmore Park, Dublin 5.
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	TIL009-22
<b>Applicant(s)</b>	Signal Infrastructure Limited
<b>Type of Application</b>	Section 254 Licence.
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Tracey Darby.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	03.06.2023.
<b>Inspector</b>	Fiona Fair

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## 1.0 Site Location and Description

- 1.1.1. The location of the development is to the north-west side of the roundabout junction of Springdale Road and Edenmore Park, facing St. Malachy's Football Club in Dublin 5. The appeal site is located on the public footpath forward of the front garden boundary of No. 1 Edenmore Park. It comprises a stated area of 3.8 x 1.6m totalling 6.08 sq. m to accommodate the telecommunications pole and cabinet.
- 1.1.2. From my site visit on the 03.06.2023 it is evident that the telecommunications pole with attached antennae and cabinet are in-situ.

## 2.0 Proposed Development

- 2.1.1. Section 254 licence application for a telecommunication signal pole and cabinet and associated works.
- 15m Alpha 3.0 free standing street pole, painted sky grey, 360mm in diameter
  - 1 No. 2.75m AW3836 Alpha Antennae at azimuths TBD & 300mm dish to be included (only if no fibre infrastructure in the area)
  - Ancillary Cabinet (1.898 m wide x 1.652 m high x 0.798m deep)

## 3.0 Planning Authority Decision

### Decision

Permission Granted for Section 254 Licence for 5 years

### Planning Authority Reports

- 3.1.1. Planning Reports
- It is considered that the proposed telecommunications mast and telecommunications cabinet would be visible in the vicinity, as indicated in the visual impact assessment (VIA). The structure would appear as a large pole in the public footpath, similar, to a somewhat wider telegraph pole. The cabinet would also be visible and would appear as a street furniture similar to the telegraph exchange box. Having regard to their scale and colour, it is

considered that the proposed telecommunications structures are of a design and scale that would not be out of character or be visually obtrusive or an incongruous element in this area. The proposed structures would not inhibit use of the public footpath or access to existing houses.

### 3.1.2. Other Technical Reports

- Transportation Planning Division: No Objection.

A telecommunications pole and cabinet at this location would not cause obstruction to pedestrians or traffic. It does not appear to impede on pedestrian flow at this point. Having regard to the above this division has no objection to the proposed development.

### **Prescribed Bodies**

None relevant.

### **Third Party Observations**

The Planners report on file states that the PA did not receive an objection to the proposed development.

## 4.0 **Planning History**

**Reg. Ref. 2860/07** Permission Granted (Aug 2007) for the construction of 2 no. attached two storey, 2 bedroom houses attached to existing end of terrace house in side garden on corner of Edenmore Park and Springdale Road with two roof lights to front and one roof light to rear, creation of new vehicular access with one off-street car parking space on Edenmore Park and new vehicular access with one off-street car parking space on Springdale Road 1, Edenmore Park, Dublin 5. Note Only one House Approved by way of Condition. The approved development was never constructed and the permission has since lapsed.

**Reg. Ref. 3203/02** Permission Granted for a single storey front extension at No. 1 Edenmore Park.

## 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.

#### Development Plan

- 5.1.1. 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.

- 5.1.2. The site is not zoned, as roadways and footpaths are not zoned in the Dublin City Development Plan maps, the surrounding area is zoned 'Z1' - Sustainable Residential Neighbourhoods. Adjoining lands to the west are zoned 'Z9' – 'To preserve, provide and improve recreational amenity and open space and green networks.'
- 5.1.3. It is noted that 'Public Service Installations' are permissible developments on 'Z1' lands.

#### 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.

#### 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.

### **Natural Heritage Designations**

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

### **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**

### **Grounds of Appeal**

A Third Party appeal has been received from Tracey Darby, No. 1 Edenmore Park Raheny. It is summarised as follows:

- The location of the telecommunications infrastructure is on Edenmore Park and not Springdale Road.
- The notice was placed on Springdale Road - Wrong location given.
- There was no communication or notice prior to the telecommunications infrastructure being constructed on site.
- Concern of its proximity to the boundary wall which is extremely unstable, from being hit by vehicles over the years.
- When it is icy or snowing vehicles hit the boundary wall, continuously.
- The pole and the box are in an extremely dangerous place.

- It attracts littering and has been graffitied. Attracts antisocial behaviour and open drug dealing.
- The manner in which the telecoms equipment was installed is underhand and extremely upsetting.
- The community intend forwarding a petition.
- Concern with respect to health implications and radiation
- Appeal attached with 4 letters from Cllr. Tom Brabazon

### **Applicant Response**

6.1.1. A response has been received from David Mulcahy Planning Consultants on behalf of Signal Infrastructure Limited, it is summarised as follows:

- It is submitted to the Board but there is no legal requirement for a site notice for S254 licence applications. Dublin City Council have asked the applicant to provide a site notice when making license applications and the applicant has agreed to same. As shown on sheet DU1678-106 a site notice was erected on the traffic sign pole at the site of the proposed development on the 21st of April 2022 and was left in-situ for three weeks as required by Dublin City Council.
- It is accepted that the address refers to Springdale road and also referred to Saint Malachy's football club for context but this is considered to be accurate and in no way misleading.
- The planning statement prepared and submitted with the application to Dublin City Council refers to the proposed telecommunications structure at junction of Springdale road and Edenmore park Dublin 5. It is submitted that this is an accurate description the location and diagrams prepared show the exact location of the pole and mast at the junction of Springdale road in Edenmore park Dublin 5.
- The structural condition of the appellants boundary wall is outside of the control of the applicant. The pole and the cabinet do not rely on the boundary wall.



- In relation to graffiti this has been an issue and our client is actively dealing with it. Antisocial behavior incl. dumping of dog bags and drug dealing, is beyond the control of the applicant. They will continue to manage the situation in the best manner that they can but ultimately these antisocial behaviour issues are not a planning matter. The proposed development does not contribute to same.
- The proposed development will be built in accordance with the current health and safety legislation and guidance which is ultra virus to the planning process. ComReg is the appropriate authority with responsibility for same. The proposed equipment and installations are designed to be in full compliance with the limits set by the Guidelines of the International Commission On Non-Ionising Radiation Protection (ICNIRP).

### **Planning Authority Response**

- None Relevant

### **Observations**

- None on File

### **Further Responses**

- None Relevant

## **7.0 Assessment**

7.1.1. 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.

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

- **Zoning and Compliance with Policy**
- **Location of the Infrastructure**
- **Visual Amenity**
- **Residential Amenity**
- **Appropriate Assessment**

### **Zoning and Compliance with Policy**

7.1.3. 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 has one 300mm dish attached to it.

7.1.4. One number cabinet is proposed, dark fir green in colour, adjacent to the street pole. It measures 1.65m (H) x 1.9m (L) x 0.8m (D)

7.1.5. 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 immediately adjoining are zoned 'Z1' Sustainable residential neighbourhoods. With the land use zoning: 'To protect, provide and improve residential amenities'. It is noted that 'Public Service Installations' are 'permitted in principle' in 'Z1' zoned lands.

7.1.6. In the planning statement and documentation submitted, the applicant has reasoned why the location was chosen.

a) It is within the search ring.

B) There is adequate space to locate a street works solution and cabinet

C) There is fiber located close to this location to ensure connectivity into the network.

D) The location will not interfere with the existing services or footpath

E) The visual impact assessment indicates no visual obtrusion,

7.1.7. 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.

7.1.8. The telecommunications pole itself is nondescript in character and design and not dissimilar in scale or design of a lamp standard or traffic light pole. I consider the development as proposed to be acceptable in principle within this zoning objective.

### **Location of the Telecommunications Infrastructure**

7.1.9. Signal Infrastructure Limited have been granted a section 254 licence for telecommunications infrastructure. The location of the infrastructure is to the northwest side of roundabout junction of Springdale road and Edenmore park facing St. Malachy's football club. The site area is the public footpath forward of the front garden boundary of No. 1 Edenmore park (the appellants property). At the time of the application, the location of the proposed infrastructure was marked on the footpath with the site notice on the nearest pole. Photographic evidence of the site notice and the markings on the footpath were submitted with the application to Dublin City Council. This is included on the file documentation. I consider from the information on file that there was no deliberate intention to disguise the location of the proposed infrastructure. The road markings are clear, as is the description of the location on the attached drawings and material submitted. I consider that the applicant has followed the procedure in place for a Section 254 Licence application.

### **Visual Amenity**

7.1.10. 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.

### **Residential Amenity**

- 7.1.11. Third party concern has been raised by the occupants of No. 1 Edenmore Park, with respect to health implications of the telecommunications infrastructure, impact upon their boundary wall and concern is raised that the telecommunications site is attracting antisocial behavior incl. dumping of dog poo bags and drug dealing.
- 7.1.12. The first party submit that the structural condition of the appellants boundary wall is outside of the control of the applicant. The pole and the cabinet do not rely on the boundary wall.
- 7.1.13. The first party, Cignal Infrastructure Limited, submit that they have been actively dealing with the matter of graffiti and litter control. It is their submission that antisocial behavior incl. dumping of dog bags and drug dealing, is beyond the control of the applicant. They will continue to manage the situation in the best manner that they can but ultimately these antisocial behaviour issues are not a planning matter. The proposed development does not contribute to same.
- 7.1.14. It is my opinion antisocial behaviour and drug dealing is a matter for the Gardai and not the planning authority. Cignal Infrastructure Ireland appear to be competent in maintaining the infrastructure in good condition and this is noted from my site visit. The location was well maintained, clean with no evidence of graffiti or littering.
- 7.1.15. This is necessary infrastructure and will assimilate into the area overtime. A condition should be attached to any decision to grant that the cabinet and pole be maintained regularly and be kept graffiti free. Also that the cabinet shall have an anti-climb device fitted and pitched metal capping to the top surface of the cabinet to prevent sitting or standing on the cabinet.
- 7.1.16. The poor condition of the boundary wall raised by the appellants is noted. No evidence has been submitted that the telecommunications infrastructure has impacted upon the structural stability of the wall. I note that any impact upon the

boundary wall and the appellants property is a civil and legal matter. Any grant of permission does not relieve the developer of the responsibility of complying with any requirements under other codes of legislation affecting the proposal or the site.

- 7.1.17. With respect to the matter of health concerns raised. I note the first party response that the proposed development will be built in accordance with the current health and safety legislation and guidance which is ultra virus to the planning process. ComReg is the appropriate authority with responsibility for same. The proposed equipment and installations are designed to be in full compliance with the limits set by the Guidelines of the International Commission On Non-Ionising Radiation Protection (ICNIRP).
- 7.1.18. 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 telecommunications infrastructure within a residential area does not give rise to any issues in terms of residential amenity.
- 7.1.19. There will be no impact on residential amenity in terms of maintenance requirements as a cherry picker would be utilised for maintenance with no requirement for maintenance crew to access the appellants property.
- 7.1.20. Overall, I see no reason to refuse permission on grounds of negative impact upon residential amenity.

### **Appropriate Assessment**

- 7.1.21. 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**

It is recommended that permission be granted.

## 9.0 Reasons and Considerations

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. (a) This permission shall apply for a period of five years from the date of this order. The telecommunications structure and related ancillary structures shall then be removed unless, prior to the end of the period, permission shall have been granted for their retention for a further period.

(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 permission.

**Reason:** To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the specified period.

3. 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 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.

4. The proposed cabinets and pole shall be maintained regularly and shall be kept graffiti free.

**Reason:** In the interests of visual amenity of the area.

5. The cabinets shall have an anti-climb device fitted and pitched metal capping to the top surface of the cabinet to prevent sitting or standing on the cabinet.

**Reason:** In the interests of protecting residential amenity.

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

04.06. 2023