



An
Bord
Pleanála

Inspector's Addendum Report

ABP-315156-22

Development	18m Streetpole Solution and ground equipment cabinet
Location	Public footpath at the junction of Sylvan Drive and Katherine Tynan Road (R838), Kilnamanagh, adjacent to Kingswood LUAS stop, Dublin 24
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	S25422/08
Applicant(s)	Signal Infrastructure Ltd.
Type of Application	Section 254 Licence
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Julie-Anne Smith
Observer(s)	None
Date of Site Inspection	6 th March 2023
Inspector	Ian Boyle

1.0 Introduction

- 1.1. This report is an addendum report to the Inspector's report for ABP-315156-22, dated 5th April 2023.
- 1.2. On the 19th May 2023, a further third party appeal was received in relation to the proposed Section 254 Licence Application. The appeal was circulated on 26th May 2023 to the Applicant (Cignal Infrastructure Ltd) and the Planning Authority (South Dublin County Council).
- 1.3. The last date for making a submission (i.e., receipt of responses) was on or before the 22nd June 2023, which is the statutory time period.
- 1.4. No response was received.

2.0 Grounds of Appeal

The main grounds of appeal are summarised as follows:

- The Applicant has commenced works on the site whilst the appeal process is being considered by the Board.
- The Planning Authority made a mistake on the issuing of the licence by referring to 'planning permission' and not a 'licence' in their Decision.
- The assessment of the application, completed by the Planning Authority, is flawed having regard to the provisions of S.254.

3.0 Assessment

The main planning considerations relevant to this appeal case are:

- Commencement of site works
- Procedural Issue

3.1. Commencement of site works

- 3.1.1. The Appellant states that construction works have commenced on the site. This is despite the appeal process still being underway and that the Board has not yet made a decision on the proposed development. The alleged site works are shown in a photograph on Page 2 of the appeal submission.
- 3.1.2. The Appellant is effectively making the submission that unauthorised development has taken place at the appeal site. The Applicant has not provided a response submission to the Board to address this assertion. However, I would note that enforcement matters are a function reserved for the relevant local authority and the Board have no role in resolving such disputes. It would, therefore, not be appropriate to assess the planning status of any works that have occurred on the site in the context of this appeal case.

3.2. Procedural Issue

- 3.2.1. The Appellant states that the Planning Authority incorrectly referenced the term 'planning permission' as opposed to 'licence' as part of their Decision to permit the proposed development.
- 3.2.2. I note that the Planning Authority relied upon S.146A of the Planning and Development Act, 2000 (as amended) to issue an amending Order on 8th November 2022 to rectify the wording of the Decision. The Order now refers to '...a decision to Grant Licence under Section 254...', which is the appropriate terminology.
- 3.2.3. I am satisfied that the issue was a clerical error and that the matter has been satisfactorily addressed by the Planning Authority. I also do not consider that this error had any material effect on the Planner's overall assessment of the proposed development.

4.0 Recommendation

- 4.1. I refer to the previous Inspector's Report and recommendation on this application dated 5th April 2023. Having regard to the additional submission received, I am satisfied that all matters have been addressed fully and no additional conditions are required. There is no change to my original report recommendation.

5.0 Reasons and Considerations

5.1. Having regard to the provisions of section 254 of the Planning & Development Act, 2000 (as amended), the South Dublin County Development Plan 2022 - 2028, and the 'Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996) (as updated by Circular Letters PL 07/12 and PL11/2020, respectively), it is considered that subject to compliance with the conditions set out below, the proposed development would not be visually intrusive or seriously injurious to the visual or residential amenity of the area, or of properties in the vicinity, and would be in accordance with the proper planning and sustainable development of the area.

6.0 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>The license shall be valid for three years from the date of this order. The telecommunications structure and related ancillary structures including any access arrangements shall then be removed and the site lands shall be reinstated on removal of the telecommunications structure and ancillary structures unless, prior to the end of the period, a further licence or planning permission shall have been granted for their retention for a further period.</p> <p>Reason: To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the specified period.</p>

3.	<p>Details of the proposed colour scheme for the telecommunications structure, ancillary structures and fencing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
4.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, off-site disposal of construction/demolition waste and the proposed parking/set down location for maintenance crews.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
5.	<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 interest of public safety.</p>
6.	<p>In the event of obsolescence, or withdrawal or expiry of the license without renewal, the telecommunications pole and associated cabinet shall be removed from the site and the site reinstated at the expense of the applicant or licensee as per the following, unless otherwise agreed with the Planning Authority.</p> <p>Reason: To protect the amenities of the area.</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.]

Ian Boyle
Senior Planning Inspector

13th July 2023