



An
Bord
Pleanála

Inspector's Report

ABP-315321-22

Development	Streetpole solution to address identified mobile and mobile broadband coverage blackspots
Location	Public grass verge along Diswellstown Road, Porterstown, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	S254W/09/22
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	23 rd March 2023
Inspector	Philip Maguire

1.0 Site Location and Description

- 1.1. The appeal site is located along Diswellstown Road (L3036), at its junction with the Porterstown Road/Kellystown Link Road, in Porterstown, Dublin 15. This is a four-arm signalised junction with delineated cycle lane crossing points. The surrounding area to the east and south is predominantly residential with educational uses including Scoil Choilm National School to the west. Fallow grassland lies to the north. The Royal Canal and the adjacent Dunboyne/Maynooth rail line is located further north.
- 1.2. The appeal site is flat and consists of a small section of grass verge immediately adjacent to an existing lamp standard, public footpath, segregated cycle track, and section of timber post and rail fencing. The fencing defines the grass verge at this section of road junction. The street lighting column is c. 10m high. A number of other street lighting columns and street trees are in close proximity to the appeal site.

2.0 Proposed Development

- 2.1. A Section 254 licence is sought for telecommunications infrastructure consisting of a 18m 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 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 November 2022 to November 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 22nd November 2022 for the following reason:

Having regard to the location of the subject site adjacent to the Diswellstown Road/Porterstown Road Junction and future Kellystown Link Road Junction, it is considered that the proposal is premature in the context of the DART Plus West project

and the Kellystown Link Road project, and may impact on planned infrastructure upgrade works which would be contrary to Objective MT30 of the Fingal County Development Plan 2017-2023 and to the proper planning and sustainable development for the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report (17/11/22): Basis for the Planning Authority decision. In terms of principle, it notes that co-location at alternative sites was discounted on the basis of being significantly outside of the search ring. In terms of visual impact, it notes that whilst the 18m high street pole will be visible from a number of vantage points, it will not significantly impact on the visual amenities of the area. In terms of transportation issues, it notes the concerns outlined in the Roads Report. It concludes that the proposed development would be premature and may impact on proposed upgrade works for the Diswellstown Road/Porterstown Road junction and future Kellystown Link Road junction upgrade in addition to the proposed DART+ West project, contrary to Objective MT30 of the Fingal Development Plan.

3.2.2. Other Technical Reports

- Roads (10/11/22): Refusal – premature pending future infrastructure proposals.

3.3. Prescribed Bodies

- Irish Water (14/10/22): No objection subject to condition.

4.0 Planning History

4.1.1. Appeal site:

PA ref. SHDW/004/21: Permission **granted** (ABP-312318-21) in March 2023 for 346 no. residential units (223 no. apartments, 123 no. houses), crèche etc. Condition nos. 2(b) to 2(e) require a number of revisions in relation to pedestrian, cycle and vehicular access in the vicinity of Porterstown Road and Kellystown Link Road junction and along Diswellstown Road, details of which are to be agreed prior to commencement.

4.1.2. Adjacent site(s):

Diswellstown Road (c. 30m east, southeast)

PA ref. S254W/06/22: Licence **refused** in July 2022 for a 18m high street pole etc. for the following reason:

Having regard to the specific location of the proposed development adjacent to the Diswellstown Road/Porterstown Road junction and within the Light Rail reservation corridor identified in the Fingal County Development Plan 2017-2023, it is considered that the proposal is premature in the context of the DART Plus West Project, given the potential for future upgrade works at this junction and would be contrary to Objectives MT30 and MT27 of the Fingal County Development Plan 2017-2023 in respect of the provision of public transport, and would therefore be contrary to the proper planning and sustainable development of the area.

Porterstown Road (c. 400m south, southwest)

PA ref. S254W/06/20: Licence **granted on appeal** (ABP-310658-21) in December 2021 for a 15m high street pole etc. The duration of the licence was limited to a period of 10 years (Condition 1).

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 21st November 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 south of a 'RA' Residential Area zoning with an objective '*Provide for new residential communities subject to the provision of the necessary social and physical infrastructure*'. A 'Light Rail Corridor' runs along the eastern side of the Diswellstown Road and Porterstown Road. A 'Road Proposal' extends westerly from the truncated section of the Kellystown Link towards Barnhill.
- 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:

- 6.5.7 – Public Transport
- 6.5.10.2 – Regional/Local Roads
- 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:

Objective CMO23 Support the delivery of key sustainable transport projects including MetroLink, BusConnects, DART+ and LUAS expansion programme so as to provide an integrated public transport network with efficient interchange between transport modes to serve needs of the County and the mid-east region in collaboration with the NTA, TII and Irish Rail and other relevant stakeholders.

Objective CMO24 Support NTA and other stakeholders in implementing the NTA Strategy including MetroLink, BusConnects, DART +, LUAS and the GDA Cycle Network.

Objective CMO41 Seek to implement the transportation schemes indicated in Table 6.3 (this table includes ‘Kellystown Road’).

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 IUO48 Promote and facilitate the provision of a high-quality ICT network and appropriate telecommunications infrastructure in accordance with the Fingal Digital Strategy 2020–23 (and any subsequent plan), and to support broadband connectivity and other innovative and

advancing technologies within the County, whilst protecting the amenities of urban and rural areas.

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.

Objective DMSO228

Require new utility structures such as electricity substations and telecommunication equipment cabinets to be of a high quality design and to be maintained to a high standard by the relevant service provider.

5.1.6. Section 2.4.1 of the Development Plan notes that the Council will continue to implement the Local Area Plans (LAPs) in place at the time of its adoption.

5.2. Kellystown LAP 2021

5.2.1. The Kellystown LAP was adopted on 11th January 2021 and remains in place under the current Plan. The appeal site appears to fall within the Eastern Development Area (Fig. 6.3) although section 5.5.1 of the LAP states that it is bounded by *inter alia* the Porterstown Link Road to the east, suggesting that it lies just outside the development area boundary. The LAP anticipates this area will deliver c. 571 to 857 no. residential units, part of which benefits from permission for 346 no. units since March 2023.

5.2.2. The LAP also recognises the importance of delivering the DART Expansion Programme and Kellystown Link Road, and particularly in terms of the of quantum of units anticipated on the LAP lands. Section 3.6 of the LAP suggests that there is sufficient telecoms infrastructure to support new development in this area, however.

5.3. Telecommunications Guidelines

- 5.3.1. The Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (DELG, July 1996) aim 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.
- 5.3.2. 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.
- 5.3.3. 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.
- 5.3.4. 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.

5.4. Circular Letters

- 5.4.1. Circular Letter PL 07/12 (DECLG, October 2012) revised elements of the Telecommunications 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 conditions 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 that planning authorities should not include monitoring arrangements as part of planning permission 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.

- 5.4.2. 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 telecommunications infrastructure along public roads do not apply where the proposed development is in sensitive areas 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.

5.5. Natural Heritage Designations

- 5.5.1. None relevant.

5.6. EIA Screening

- 5.6.1. 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 Limited.
- 6.1.2. The main grounds of appeal can be summarised as follows:

- The applicant notes that provisions exist under s. 254(4) to withdraw the licence where in the opinion of the planning authority by reason of the increase or alteration of traffic on the road or of the widening of the road or of any improvement of or relating to the road, the appliance, apparatus or structure causes an obstruction or becomes dangerous etc.
- The applicant has indicated that they have made every reasonable effort to find a suitable location to address a telecoms blackspot that exists in this area and refers to previous refusal under PA ref. S254W/06/22.
- The applicant states that the proposed location does not appear to conflict with the DART+ West or Kellystown Link Road projects based on available Local Authority mapping and again refer to the fall-back position under s. 254(4). This, they state, is unreasonable.
- The applicant is amenable to a condition limiting the duration of the licence. They note that the lifetime of permissions for street poles is generally temporary in nature and they consider that junction upgrades will only commence around the time the permission has expired or is close to expiring. They also note that the Railway Order was only lodged with An Bord Pleanála on 29th July 2022 and the Planning Authority has not provided any timeframes for the road junction upgrade works or demonstrated that the subject site would interfere with such works.
- By way of precedence, the applicant refers to ABP-311942-21 (PA ref. S254L/000681) and specifically notes the approach of the Inspector in his assessment of the planned road improvements where he considered that the timeframe for delivery was undefined and vague. The Inspector recommended a 3-year licence. The Board limited the licence to a period of 5 years. This, the applicant presumes, was on the basis of the availability of s. 254(4).

6.2. Planning Authority Response

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

- 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 Planning Authority is concerned that the location of the proposed development may impact on the DART+ West project and future Kellystown Link Road junction upgrade, and is therefore premature, requests the Board to uphold their decision to refuse permission.

7.0 Assessment

7.1. Preliminary Points

- 7.1.1. The Planning Authority's sole refusal reason relates to prematurity in the context of the DART+ West and the Kellystown Link Road projects, suggesting that the proposal may impact on the planned infrastructure upgrade works. This, the Planning Authority states, would contravene Objective MT30 of the Fingal Development Plan 2017-2023.
- 7.1.2. Objective MT30 related to supporting Iarnród Éireann and the NTA in implementing the DART Expansion Programme, including the design and planning for the expansion of DART services to Maynooth. The current Development Plan came into effect on 5th April 2023 and a similar policy approach is reflected in objectives CMO23 (Enabling Public Transport Projects) and CMO24 (NTA Strategy), as cited earlier in this report. Objective MT30 did not relate to any planned road upgrades *per se* as reflected in Table 6.3 and objective CMO41 of the current Development Plan, as cited earlier.
- 7.1.3. 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:
- Impact on DART+ West Project
 - Impact on Kellystown Link Road Project
 - Justification and Legislative Context
 - Appropriate Assessment

7.2. Impact on DART+ West Project

- 7.2.1. There is limited information on the appeal file regarding the DART+ West project. The report that informed the Planning Authority's decision simply states that the subject junction is included in the project for possible upgrade works. It does not include any maps or a description of the nature of the works proposed. Similarly, the appeal submission refers only to the date on which the Railway Order application was lodged and suggests that there will be a considerable period of time before a decision is made.
- 7.2.2. Full details on the DART+ West Railway Order application are publicly available, and I note that the subject junction and adjoining grassland to the northwest are included in the development boundary on the Works Layout Plan (Dwg. No. WP015). The relevant works are set out in the associated schedule (Schedule 1, Sheet 15). The proposed works will upgrade the existing four-armed signalised junction and it is clear that these works will impinge on the existing grass verge including appeal site.
- 7.2.3. In terms of the western arm, I specifically note that the road boundary will be relocated northwards into the existing fallow grassed area in order to facilitate an additional eastbound lane including segregated cycle track and footpath. I also note that the grassed area to the northwest is identified as a construction site and compound with a new access point illustrated in the vicinity of the appeal site on Dwg. No. WP015.
- 7.2.4. I have been unable to ascertain a timeframe for the proposed works other than to note that the project specific FAQ section of DART+ programme website indicates that works are expected to commence in 2023 and will be completed/operational in 2027.

7.3. Impact on Kellystown Link Road Project

- 7.3.1. There is limited information on the appeal file regarding the Kellystown Link Road project although I do accept that there is specific reference to it in the LAP and Development Plan, objective CMO41 and Table 6.3 in the case of the latter. Again, the report that informed the Planning Authority's decision simply states that the proposed location is adjacent to the future Kellystown Road junction upgrade. It does not include any maps or a description of the nature of the works proposed. Similarly, the appeal submission does not provide any specific detail in respect of the project.
- 7.3.2. The only publicly available documentation that I could access in relation to the Kellystown Link Road project was contained within a non-statutory public engagement

exercise carried out by the Local Authority. The project is described as a link from the Diswellstown Road at Porterstown in the east to Barnhill in the west. The emerging preferred route was on public display from 17th September to 6th November 2020.

- 7.3.3. I have reviewed the display documentation and I note that the proposed junction upgrades broadly reflect those contained within the DART+ West Railway Order application i.e. additional southbound and eastbound lanes on the northern and western arms of the road junction are proposed. There are however subtle differences between the projects and having regard to Dwg. No. 1075 of the display documentation I am not convinced that the proposed junction upgrades are entirely the same. The proposed street pole may not therefore impact on this project to the same degree but the appeal site is identified within the scheme extent nonetheless.

7.4. Justification and Legislative Context

- 7.4.1. ComReg's interactive mapping system indicates that 4G coverage in the area is good for the subject service provider ('Three'), although I note that the appeal site is located towards the periphery and close to areas of fair coverage where drop-outs are possible. The mapping also indicates that 5G coverage for the provider is fair. I have reviewed the 4G and 5G coverage for other providers and on balance, I accept that there is a need for improved mobile and mobile broadband coverage in this area. This is also suggested in the existing and proposed indoor coverage maps submitted with the application but I am not able to verify their modelling and do not afford them weight.
- 7.4.2. I note that local and national planning policy seeks to support and encourage new telecoms infrastructure in these circumstances. I also note that s. 254(4) of the Planning Act legislates for the withdrawal of licences where in the opinion of the Planning Authority the appliance, apparatus etc. causes an obstruction or becomes dangerous by reason of road widening or any improvements relating to the road. This would appear to me to be the obvious solution in the present circumstances and could be exercised by the Planning Authority when the junction upgrade works progress.
- 7.4.3. I also note that the applicant has sought a 5-year licence. I consider the present circumstances to be exceptional in the context of section 2.2 of Circular Letter PL 07/12. A temporary, time-limited, licence is therefore appropriate. I consider however a 3-year licence is entirely reasonable on the basis of the planned junction upgrades.

- 7.4.4. In terms visual impacts, the applicant justifies the proposed height on the basis of obstacle clearance that would otherwise cause network interference. In this regard, I note that belts of trees flank the Diswellstown Road, north of the junction, with the belt to the eastern side being particularly dense. The height of the adjacent residential building is 3-4 storey and the prevailing height in the area is 2-3 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 rises upwards to the north, where it meets the railway bridge, and that this would impede many views from this direction.
- 7.4.5. Finally, I note that alternative sites from which to co-locate were examined. These were discounted due to being either unavailable or unsuitable. Having reviewed the licence application, appeal submission, and given the deficit of network coverage in the area, I am satisfied the proposal is justified at this location for a temporary period.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development, which is for telecoms infrastructure consisting of a 18m 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, the Kellystown LAP 2021, 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 be premature in the context of significant infrastructure delivery or visually obtrusive to, or detract from, the visual amenity of the area. 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>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, 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 planned infrastructure upgrades 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 interests of the visual amenities of the area.</p>
4.	<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</p>

agreed in writing with, the planning authority prior to commencement of development.
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Reason: In the interests of public safety.

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

25th May 2023