



An
Bord
Pleanála

Inspector's Report

ABP-317393-23

Development	Section 254 licence for a Telecommunications structure.
Location	Junction of Roselawn Road and Delwood Road, Dublin 15
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	S254W/05/23
Applicant(s)	On Tower Ireland Limited.
Type of Application	Section 254 Licence.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Cllr John Walsh
Observer(s)	<ol style="list-style-type: none">1. An Taoiseach Leo Varadkar2. Emer Currie3. Michael J O'Connor & Imelda L. Birmingham4. Albert and Rosemary Fenton and William and Dawn Turner5. Olive and John Marshall

6. Brompton Area Residents Association
7. Sabrina Antoniontti
8. Delwood Residents Association
9. Alana Loison
10. Joan and Seamus Mellett
11. Francis and Paul Cooke
12. Siobhan Shovlin
13. Katherine Draisey.

Date of Site Inspection

23.09.2023

Inspector

Fiona Fair

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1.0 Site Location and Description

- 1.1. The subject site is located on the public footpath at Delwood Road, Blanchardstown, Dublin 15 at the junction of Delwood Road and Roselawn Road. The site is located to the southeast boundary of the Roselawn Shopping centre just outside of the low boundary wall of the shopping centre site. The public road adjoins to the east (Roselawn Road) with Delwood Road adjoining to the south. The wider area is residential in nature with two storey semi detached houses prevalent to the east and south.
- 1.2. The site is owned by Fingal County Council as it forms part of road infrastructure.

2.0 Proposed Development

- 2.1. The proposal consists of a Section 254 licence to install a 15m high “streetpole solution” with ancillary cabinet to address identified mobile and mobile broadband coverage blackspots.

The equipment dimensions are as follows:

Streetworks Pole

Height: 15m

Diameter / width: 360mm (Diameter)

Colour: grey

Cabinet

Height: 1.65m

Length: 900mm

Width: 600mm

Colour: Dark Fir Green

Dishes: One number 300mm (Diameter) - Goose Grey Colour

Antennas One number 2.75 meter AW3836 Alpha Antennae (encased inside pole)

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to six number conditions, of note:

C2. Restricts the Licence to a 5 year period.

C5. Concerns prevention of spillage or deposit of any materials on adjoining roads during the course of construction.

C6. Restricts hours of construction operation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- It is considered that the site at the edge of the existing local centre, has sufficient capacity to absorb the proposed development without excessive visual impact. While the scale of the pole is considered significant it is noted that there are a number of public lighting poles located along this section of Delwood Road which are also located on un-zoned lands. It is noted that the proposal will replace an existing nearby tower and it is not considered that the receiving environment is particularly sensitive.
- Having reviewed the planning application documents and visited the site, it is considered that the proposed development complies with Objective DMSO223, which encourages appropriately located communications structures.

3.2.2. Other Technical Reports

- Irish Water: No objection
- Water and Drainage: No objection.
- Transportation: No objection subject to condition.
- Parks and Green Infrastructure Division: No objection subject to condition.

3.3. **Prescribed Bodies**

None on File

3.4. **Third Party Observations**

None on File.

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.

5.2. **Development Plan**

- 5.3. The PA made their assessment having regard to the newly adopted Fingal County Development Plan 2023 – 2029.

Chapter 11 Infrastructure and Utilities

Strategic Objective no. 10: Protect, enhance and ensure the sustainable use of Fingal's key infrastructure, including water supplies and wastewater treatment facilities, energy supply including renewables, broadband and transportation.

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

IUP38: 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.

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.

IUO54: Support the appropriate use of existing assets (i.e. lighting, street furniture etc) for the deployment of telecoms equipment and to encourage the sharing and co-location of digital connectivity infrastructure in the interests of visual amenity and protection of the built heritage.

DMSO17: Where possible, new utility structures such as electricity substations and telecommunication equipment cabinets should not be located adjacent or forward of the front building line of buildings or on areas of open space.

DMSO18: 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.

DMSO223: Encourage the location of telecommunications-based services at appropriate locations within the County, subject to environmental considerations and avoid the location of structures in fragile landscapes, in nature conservation areas, in highly sensitive landscapes and where views are to be preserved.

DMSO224: Require the following information with respect to telecommunications structures at application stage:

- Demonstrate compliance with Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities issued by the Department of the Environment 1996 and Circular Letter PL 07/12 issued by the Department of the Environment and Local Government (as may be amended), and to other publications and material as may be relevant in the circumstances.
- Demonstrate the significance of the proposed development as part of a national telecommunications network.
- Indicate on a map, the location of all existing telecommunications structures within a 2 km radius of the proposed site, stating reasons why (if not proposed) it is not feasible to share existing facilities having regard to the Code of Practice on Sharing of Radio Sites issued by the Commission for Communications Regulations.
- The degree to which the proposal will impact on the amenities of occupiers of nearby properties, or the amenities of the area (e.g. visual impacts of masts and associated equipment cabinets, security fencing treatment etc.) and the potential for mitigating visual impacts including low and mid-level landscape screening, tree-type masts being provided where appropriate, colouring or painting of masts and antennae, and considered access arrangements.

- Ensure that when such licences are sought nearby property owners and occupiers are made aware of the application prior to Fingal County Council or An Bord Pleanála agreeing the licence.

EEO31: Support the growth of business in the green and circular economy and the initiatives within the IDA strategy Driving Recovery and Sustainable Growth, or any superseding document, including through the accelerated roll-out of the National Broadband Plan.

- 5.3.1. The site forms part of the local road infrastructure is not zoned. The nearby zonings include 'LC' – Local Centre and 'RS' – Residential.

5.4. Natural Heritage Designations

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

5.5. 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. Grounds of Appeal

A Third-Party Appeal has been received from Cllr John Walsh. It is summarised as follows:

- Recognise the need for high quality telecommunications infrastructure, however, have concerns about the inappropriate location.
- The location of the mast is visually intrusive and damaging to residential amenity.
- Location inappropriate beside a major shopping centre and close to St Francis Xavier's National School.

- Both national government and local authority guidance in relation to telecommunications masts urges that they be located in less prominent locations - this location could hardly be more prominent at the junction of two busy roads beside a shopping centre.
- A 15 metre streetpole with antenna and possibly a dish would not be obscured by trees which are only a fraction of the height of the structure,
- This application fails to achieve co-location
- An existing structure (DU1052) only 430 metres away near Blanchardstown village could be utilised for co-location but this possibility is rejected.
- The site has been the subject of numerous road traffic accidents.
- The erection of this mast and cabinet at the proposed location will hinder sightlines for motorists accessing Roselawn Road from Delwood Road.
- The placing of such a significant structure on the corner of these two roads is detrimental to health and safety as it increases the risk of further accidents.
- The route is heavily trafficked a main link for vehicular traffic between Blanchardstown village, the Coolmine/Clonsilla area and the Blanchardstown Centre.
- The junction at the proposed site is correctly marked with double yellow lines, therefore there is no parking for vehicles either during the construction of the mast and cabinet or any ongoing maintenance that may be required in the future.

6.2. Applicant Response

6.2.1. A response was received from David Mulcahy Planning Consultants on behalf of On Tower Ireland Limited. It is summarised as follows:

- The location at the edge of a commercial land use (shopping centre) is an ideal location for development of this nature.
- The backdrop of the shopping centre significantly reduces the visible impact of the slender streetpole on account of the large scale of the shopping centre

and the presence of existing tall slender structures in the form of lighting poles.

- House numbers 96 and 98 Roselawn road face towards the subject site at a separation distance of approximately 30 metres which is considered to be substantial.
- There are mature trees in the grass verge outside the front of these draft dwellings which obscure views of the site.
- Given the slender nature of the street pole and the commercial backdrop it is an appropriate form of development even without any screening and it will not have a material impact on visual amenity of residences in the area.
- There are numerous instances of precedent by An Bord Pleanala to grant similar section 254 licenses.
- The Board have approved multiple streetpoles on footpaths along public roads to date. It is submitted that a departure from this approach would have significant consequences for the delivery of critical infrastructure.
- The proposed solution was chosen as a last resort measure to fulfill a specific coverage deficit.
- The solution proposed currently facilitates a single operator, however, the foundation cabinet arrangement and pole base design will facilitate the upgrade to additional operators in the future subject to a separate license application should the need arise.
- As noted in the planning statement submitted with the planning application this new site is proposed to replace the existing site DU1052 in Blanchardstown which is no longer suitable to provide adequate coverage to the surrounding dense suburban area. The unsuitability of the existing site is the very reason why the current license application for a street pole solution is being made.
- No evidence has been submitted or provided that the proposed cabinet will interfere with sightlines and cause a traffic safety concern.

- The proposed development is in compliance with Table 4.2 of the DMURS Guidelines. Appendix A shows the sidelines looking North from the junction which has the requisite distance of 45 meters available.
- Fingal County Council roads department did not raise any issues or concern with regard to traffic safety.
- With respect to construction traffic the applicant is required to lodge a Road Opening Licence (ROL). The ROL will be reviewed and issued by Fingal roads department.
- Routine maintenance on the proposed solution is minimal and under normal circumstances is completed with minimal equipment

6.3. Planning Authority Response

- Response received, no further comment to make. Requests the Board upholds the decision of the PA.

6.4. Observations

6.4.1. 13 Number observations have been submitted to the Board and are attached to the file, the names of the observers are set out at the front of this report. The issues raised are jointly summarised as follows:

- The need is unjustified at this location.
- Contrary to Fingal County Development Plan (2023 – 2029) policy, with respect to ‘sharing and co-location’
- Unsuitable location on a very busy road beside a shopping centre, St. Xavier’s NS and Roselawn health centre. Dangerous location from a traffic perspective.
- Concern of footpath obstruction, esp. for school children.
- Concern of traffic safety from obstruction of sightlines for cyclists and motorists.
- Damaging to local amenity from a visual perspective. Industrial type structure.

- Unsightly and detract from the visual environment.
- There are alternative sites available on the grounds of commercial sites and premises more suitable.
- Concern construction traffic would cause an obstruction – No parking permitted at the site location, given the presence of double yellow lines marking the road the site location.

6.5. Further Responses

- 6.5.1. Further responses to the first party response were submitted by the following observers and the appellant: Leo Varadkar, Albert and Rosemary Fenton, William and Dawn Turner, Katherine Draisey, Olive and John Marshall, Michael J O'Connor & Imelda L. Birmingham, Delwood Residents Association, Brompton Area Residents Association and Cllr. John Walsh.
- 6.5.2. No new fundamental issues raised. It is pointed out that Cllr. John Walsh does represent the observers and residents' association on the matter the subject of this application.

7.0 Assessment

- 7.1. 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.
- 7.2. 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:

- **Appropriateness of the Location**
- **Technical Justification**
- **The convenience and safety of road users including pedestrians.**
- **The impact of the development on visual and residential amenity.**
- **Appropriate Assessment**

7.3. Appropriateness of the Location

- 7.3.1. The subject appeal site is located on un-zoned lands on the public footpath to the southeastern perimeter of Roselawn Shopping Centre, at the junction of Delwood Road and Roselawn Road to the south of Blanchardstown, Dublin 15. The footpath at this location is 3 m in width with an additional grass verge strip.
- 7.3.2. The proposed street pole and antennae would have a height of 15m with 1 no. AW3838 ALPHA antennae at Azimuths (TBD) and 1 no. 300mm dish. The painted green ground, equipment cabinet would measure 0.60m in width x 0.90m in length, with a height of 1.652m. Both are proposed to be located tight against the low perimeter wall of the shopping centre on the corner.
- 7.3.3. The closest dwelling is approx. 25m distant on the opposite side of Roselawn Road (No. 98). From my site visit it is evident that there are significant trees, traffic signs, lighting standards and general street furniture and utilities along both Delwood Road and Roselawn Road.
- 7.3.4. In terms of zoning, the site is located on the public footpath, under the control of the Roads Department of Fingal CC. It has an unclassified designation within the Fingal County Development Plan 2023 – 2029. As set out above in Section 5.0 Policy Context of this report national legislation, policy and guidelines support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for all areas of the country.
- 7.3.5. I note that the FCDP 2023 – 2029 also supports the provision of a high-quality competitive information and communications telecommunications (ICT) service. Chapter 11 Infrastructure and Utilities is of relevance to the subject application.

Strategic Objective no. 10 states: 'Protect, enhance and ensure the sustainable use of Fingal's key infrastructure, including water supplies and wastewater treatment facilities, energy supply including renewables, broadband and transportation'.

7.3.6. The following objectives, stated in full in Section 5.3 Development Plan of this report above, IUP36, IUP38, IUO53, IUO54, DMSO17, DMSO18 are of specific relevance. I note that objective DMSO223, specifically encourages the location of telecommunications-based services at appropriate locations within the County, subject to environmental considerations and avoid the location of structures in fragile landscapes, in nature conservation areas, in highly sensitive landscapes and where views are to be preserved. Having reviewed the planning application documents and visited the site, it is considered that the proposed development complies with Objective DMSO223, which encourages appropriately located communications structures.

7.3.7. I consider that the information submitted with the application is in compliance with objective DMSO224 which requires the following information with respect to telecommunications structures at application stage:

- Demonstrate compliance with Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities issued by the Department of the Environment 1996 and Circular Letter PL 07/12 issued by the Department of the Environment and Local Government (as may be amended), and to other publications and material as may be relevant in the circumstances.
- Demonstrate the significance of the proposed development as part of a national telecommunications network.
- Indicate on a map, the location of all existing telecommunications structures within a 2 km radius of the proposed site, stating reasons why (if not proposed) it is not feasible to share existing facilities having regard to the Code of Practice on Sharing of Radio Sites issued by the Commission for Communications Regulations.
- The degree to which the proposal will impact on the amenities of occupiers of nearby properties, or the amenities of the area (e.g. visual impacts of masts and associated equipment cabinets, security fencing treatment etc.) and the potential for mitigating visual impacts including low and mid-level landscape screening,

tree-type masts being provided where appropriate, colouring or painting of masts and antennae, and considered access arrangements.

- Ensure that when such licences are sought nearby property owners and occupiers are made aware of the application prior to Fingal County Council or An Bord Pleanála agreeing the licence.

7.3.8. 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 or national monuments in the immediate vicinity. It is noted that the proposal will replace an existing nearby tower. There are numerous instances of precedent for similar telecommunications structures on public footpaths through out the city and country. I wholly agree with the planning authority that the receiving environment is not particularly sensitive.

7.3.9. 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 that the applicant's agent has clearly established the acceptability of the application under the provisions of section 254. Given national and local policy I consider the development as proposed to be acceptable in principle at this location.

7.4. Technical Justification

7.4.1. Third party concern has been raised with respect to justification and need for the telecommunications infrastructure / streetpole and associated cabinet. There is a satisfactory explanation within the submission provided by the applicant as to the lack of scope for collocation of existing infrastructure and the purpose of the proposed installation in responding to an existing blackspot in network coverage in the area and with regard to site selection and potential impact on the amenities of the environs.

7.4.2. Overall, I see no reason to refuse permission on grounds of lack of technical justification, rationale or need.

7.5. The convenience and safety of road users including pedestrians.

7.5.1. Third party concern has been raised with respect to traffic safety for motorists, pedestrians and cyclists. In particular visibility from motorists exiting from Delwood Road is raised. It is submitted that the location is a black spot for motor accidents.

No issue or concern has been raised by the planning department or the area engineer with respect to traffic safety or obstruction to pedestrians. The footpath is some 3m in width at this location with an additional grass verge strip. The subject site location is on a corner with no obstructions, there would be c.2.4m clear footpath to the west of the cabinet to accommodate pedestrians. This I consider acceptable.

7.5.2. Having carried out a site visit and noting the location of the proposed telecommunications cabinet on the footpath located tight against the boundary wall on a wide stretch of footpath. I consider that the sightlines 2.4 m set back x 45m using DMURS criteria as submitted with the appeal response documentation is valid and acceptable and I am of the opinion, given the proposed location of the cabinet and pole, it would not impact upon sightlines exiting Delwood Road. I therefore agree with the PA in this regard.

7.5.3. I note that third party's concern in respect of the location being an accident blackspot, the number of cars using the route and the high level of footfall of national school children. The proposed development is located in a 50km/hr speed limit. Traffic speed is an enforcement issue for An Garda Siochana. I note that there is a clear precedent set to permit similar Section 254 licence applications by other Planning Authorities and the Board on public footpaths and verges adjoining public roads. The location would not obstruct sightlines at the junction and there would be sufficient space on the footpath to accommodate the cabinet, pole and pedestrians. Given all of the foregoing I do not recommend that permission be refused on grounds of negative impact to convenience and safety of road users including pedestrians.

7.6. Impact Upon Amenity of Surrounding Environs

7.6.1. A visual impact assessment has been submitted with the application. A total of 11 no. visual reference points were assessed. It is concluded that while the 15m high pole would be visible from close up locations, it would not be detrimental to the visual amenities of the area.

7.6.2. I consider that the selected site location has capacity to accept the proposed pole, antenna and associated equipment. The surrounding landscape is not sensitive the immediate environs being that of a shopping centre and residential neighbourhood, with associated street lighting poles, trees and road traffic signs. Cognisance is had

to the local N.S, Shopping Centre and residences. The structure, in combination, with existing utilities would not have a significant impact or alteration to the existing views along the public road and towards the site location in particular from the surrounding local centre, individual dwellings and the public realm.

- 7.6.3. 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) and roadside trees.
- 7.6.4. A condition should be attached to any decision to grant that the proposed cabinets and pole be maintained regularly and be kept graffiti free. Also, that 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.
- 7.6.5. Should the Board be minded to grant permission, I am of the view that 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.
- 7.6.6. 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.

Appropriate Assessment

- 7.6.7. Having regard to the minor nature of the development, its location on the footpath verge, 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. It is recommended that the Board directs the planning authority to Grant the licence subject to the following conditions:

9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the Fingal County Development Plan 2023 - 2029, 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.

Fiona Fair
Senior Planning Inspector

24.09. 2023