



An  
Bord  
Pleanála

# Inspector's Report

## ABP-317670-23

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<b>Development</b>	Licence application for telecommunications structure and associated site works.		
<b>Location</b>	Mounthawk, Tralee, Co.Kerry.		
<b>Planning Authority Ref.</b>	012023254.		
<b>Applicant(s)</b>	Signal Infrastructure Limited.		
<b>Type of Application</b>	Section 254 Licence.	<b>PA Decision</b>	To Refuse
<b>Type of Appeal</b>	First Party	<b>Appellant</b>	Signal Infrastructure Limited
<b>Observer(s)</b>	None on file.		
<b>Date of Site Inspection</b>	30.01.2024	<b>Inspector</b>	Des Johnson

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### Context

#### 1. Site Location/ and Description.

The site is located at the roundabout junction of the R558 and R551, to the front of the Circle-K filling station, at the north-west edge of Tralee, Co. Kerry.

The site forms part of a grass verge owned by Kerry County Council.

Adjacent to the south west there is a Montessori school set back from the public road. There is a play area to the front of the school, between it and the public road. To the south-east there is a modern commercial/residential development and associated carparking. Mercy Secondary school is to the south-east of this development. There is significant residential development in the vicinity – predominantly detached dwellings on large sites.

There are tall street lights on the roundabout junction between the R551 and R558.

## **2. Description of development.**

The proposal is for an 18m high Alpha 2.0 streetpole, with one 3.7m antenna, and one 300mm dish (to be included only if no fibre infrastructure in the area), along with ancillary cabinet (1.649m high x 1.168m wide x 0.793m deep).

The proposed 18m pole is galvanised, and 0.324m in width. The proposed antenna would be attached to the top of the streetpole (14.30m – 18.00m) and this section of the streetpole would be 0.406m wide. The pole would be neutral sky grey in colour.

The application form states that the licence is required for the period 4/2023 to 4/2028 (5 years).

The application documentation contains a series of photomontages.

## **3. Planning History.**

None relating to this site.

## **4. National/Regional/Local Planning Policy**

### National Policy

The Telecommunications Antennae and Support Structures Guidelines for Planning Authorities are dated 1996. The Guidelines set out current national planning policy in relation to telecommunications structures and, in Section 4, address the following issues:

- Design and Siting

- Visual Impact
- Access Roads and Poles
- Sharing Facilities and Clustering
- Health and Safety Aspects
- Obsolete Structures
- Duration of Permission

The Guidelines are generally supportive of the development and maintenance of a high-quality telecommunications service. Visual impact is identified as among the more important considerations. In terms of design, support structures should be kept to the minimum height consistent with effective operation, and should be monopole (or poles) rather than a latticed tripod or square structure. Sharing of facilities is to be encouraged and applicants should satisfy the authority that they have made a reasonable effort to share.

Circular Letter PL07/12 revise sections of the 1996 Guidelines. The Circular Letter refers to a growing trend for Development Plans to specify minimum distances between telecommunications structures and houses and schools. This does not allow for flexibility on a case by case basis, and can make the identification of new infrastructure very difficult. Separation distances should not be specified in Development Plans. Section 2.6 of the Circular letter refers to Health and Safety Aspects and reiterates the advice of the 1996 Guidelines that planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds. Planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures. Health issues are regulated by other codes and such matters should not be additionally regulated by the planning process

#### Circular Letter PL 11/2020

Circular Letter PL 11/2020 'Telecommunications Services – Planning Exemptions and Section 254 Licences' was issued in December 2020. I advises planning authorities as follows:

- Section 254 of the Act outlines the provisions in relation to the licensing of appliances and cables etc on public roads.
- A section 254 Licence is required for overground electronic communications infrastructure, and associated works, and such works are exempted from the requirement for planning permission.
- Exemptions for telecommunications 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 proposed development would endanger public safety by reason of traffic hazard or obstruction of road users.

The Kerry County Development Plan 2022-2028 came into effect on 15<sup>th</sup> August 2022.

Key objectives of the Plan include the following:

KCDP 14-73: Facilitate the sustainable delivery of high-speed, high-capacity digital and mobile infrastructure and support the continued investment and delivery of ICT infrastructure broadband and digital broadcasting in the County in line with the National Broadband Plan for Ireland.

KCDP 14-75: Support the sustainable provision of modern and innovative telecommunications infrastructure at appropriate locations.

KCDP 14-79: Achieve a balance between facilitating the provision of telecommunication infrastructure in the interests of social and economic progress and sustaining residential amenity and environmental quality.

## **5. Natural Heritage Designations**

- Tralee Bay and Maharees Peninsula, West to Cloghane SAC – 2.6km to south-west.
- Tralee Bay SPA – 2.86km to the south-south-west.
- Ballyseedy Wood SAC – 4.7km to the south-west'

- Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA – 6.2km to the north-east.
- Akeragh, Banna and Barrow Harbour SAC – 7.6km to the north-west.

## Development, Decision and Grounds of Appeal

### 6. PA Decision.

By Order dated 8<sup>th</sup> May 2023, Kerry County Council decided to refuse permission for four reasons, summarised as follows:

1. Highly obtrusive feature in the streetscape and broader area, seriously injuring visual amenities. Undesirable precedent.
2. Injury to the amenities of property in the vicinity, including Montessori School, a secondary school, commercial properties, and residences. Contravene Objective KCDP 14-81 of the Kerry County Development Plan 2022-2028.
3. Location at the junction of the R558 Fenit Road and R551 Ardfert Road, within a 50km/h zone.
4. Road Safety hazard which may draw the attention of the motorist away from the road at point where utmost attention is required.

The Planner's report states that the proposed 18m structure would not integrate satisfactorily into the streetscape and would be unduly obtrusive and incongruous. It would have a negative visual impact on the approach to Tralee. A previous application for a 15m pole was refused by the planning authority further to the south-east of the site at the junction of Lioscarrig Court and Caherslee Road. The proposal is in proximity to a Montessori School, secondary school, commercial and residential development. It would set an undesirable precedent. The proposal would contravene Objective KCDP 14-81.

The Tralee Municipal District Area Engineer's report recommended refusal for reasons similar to Reasons 3 and 4 of the Refusal issued.

## **7. First Party Appeal.**

The grounds of appeal may be summarised as follows:

- There would be no material negative impact on the visual amenities of the area. There would be slight to moderate visual impacts in the middle to near distance. The site has a commercial backdrop of the filling station. Similar types of structures have been granted many times in residential areas. The Board has granted licenses for similar height structures – LC09.311942, S89/S254(6)(A), LC06F.312051.
- There is no Objective KCDP 14-81 and it is presumed that the reference should be to Objective KCDP 14-79. The Planning Authority has not specified what impact there would be on the Montessori School, secondary school, commercial properties, and residences. The Montessori School is c.62m to the west and largely obscured from the site by mature trees. The nearest dwellings are c.60m away and views are obscured by mature trees. The next nearest dwellings are c75m and c.80m separated from the proposed site, and there would be no material impact. Mercy Secondary School is located c.150m to the east. There would be no material impact on the amenity of these buildings or their users.
- The third reason for refusal does not raise any planning issues, concerns, or problems.
- Road Safety Hazard has never previously been raised as an issue with this type of development. The proposed structure is very similar to pole-mounted CCTV cameras erected around the country.

## **8. PA Response**

None on file.

## Environmental Screening

### 9. EIA Screening

Having regard to the nature of the proposed development and its location in an urban area on the outskirts of Tralee, and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### 10. AA Screening - Use standard wording with site specific focus

Having regard to the nature and scale of development, location in an built up area, and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 2.0 Assessment

2.1 This is a first party appeal against the decision of Kerry County Council to refuse to grant a licence under Section 254 of the Planning & Development Act 2000, as amended, for the erection of an 18m high streetpole, with one 3.7m antenna and one 300mm dish, along with ancillary cabinet, at the roundabout junction between the R551 and R558 in the outskirts of Tralee. The site is on a small grassed area which adjoins the public footpath bounding an existing Circle K petrol filling station.

2.1.1 The planning authority has refused to grant the licence for 4 reasons relating to visual obtrusion, injury to the amenities of property in the vicinity, contravention of

Objective 14-81 of the Kerry County Development Plan, and road safety. I submit that these are the key issues to be addressed in this appeal.

### **2.1.2 Visual Impact.**

The proposal is for an 18m high galvanised pole 0.324m in width. Proposed antenna attached to the pole at a height of 14.30m to the top would increase the width of the pole to 0.406m in width. The pole would occupy a small footprint, would be served by underground infrastructure and an ancillary cabinet 1.649m high by 1.168m wide and 0.793m deep. All cabling would be internally housed. The pole would be sited between two 12m high street lights. There are other 12m high street lights at the roundabout junction, all served by underground infrastructure.

No protected views would be impacted by the proposed development.

The area around the roundabout junction has a range of uses. The proposed site adjoins a commercial petrol station including shop, there is a modern commercial/residential development approximately 60m to the south-east on the opposite side of the roundabout, a Montessori School approximately 60m to the south-south west (with play area to the front and closer to the proposed development), and Mercy Secondary School approximately 150m to the east. Residential development in the vicinity is predominantly detached dwellings on large sites. There are deciduous trees along the R558 and R551 which partly limit views along those public roads towards the site. The existing public street lights are prominent vertical features in views towards the roundabout from all directions. These lighting poles are 12m in height and the proposed streetpole will exceed these by 6m. The planning authority concludes that the proposed development would be seriously injurious to the visual amenities of the area. Having regard to the existing pattern of development in the area, including existing public infrastructure, and to the design of the proposed structure, I consider that the



proposed development, while prominent in some views, would not have undue visual impact injuring the visual amenities of the area.

### **2.1.3 Amenities of Property in the Vicinity.**

Circular Letter PL07/12 states that separation distances should not be specified to allow flexibility on a case-by-case basis. The Letter also refers to Health & Safety and reiterates advice contained in the 1996 Guidelines that planning applications should not be determined on health grounds. It is reasonable to assume that the same advice would apply to Licence applications.

Sensitive receptors in this case are the Montessori School (60m to the south, south west, Mercy Secondary School (approximately 150m to the east), and residential development fronting on to the two public roads. I submit that the proposed development would not have an undue adverse visual impact on the existing development in the vicinity, and any potential for health impacts would be regulated through other codes. On this issue, I conclude that the proposed would not be injurious to the amenities of property in the vicinity.

### **2.1.4 Contravention of Development Plan Objective.**

National policy, as expressed through the 1996 Telecommunications Guideline is generally supportive of the development and maintenance of high-quality telecommunications service. Kerry County Development Plan 2022-2028 supports the sustainable provision of modern and innovative telecommunications infrastructure at appropriate locations.

The planning authority considers that the proposed development would contravene Development Plan Objective 14-81. It is reasonable to assume that reference should have been to Objective KCDP 14-79. This objective seeks to achieve a balance between facilitating the provision of telecommunication infrastructure in the interests of social and economic progress and sustaining residential amenity and environmental

quality. I have concluded that the proposed development would not be injurious to the amenities of property in the vicinity. There is no information to indicate that this area is environmentally sensitive or of particular environmental quality. There would be no impact on any designated European sites. On this issue I conclude that, having regard to the nature of the proposed development, there would not be any significant impact on environmental quality in the area.

### **2.1.5 Road Safety**

Reason 3 of the planning authority's decision states that the proposed location is at the junction of the R558 and R551 Ardfert Road, within a 50kph zone. This is factually correct but does not constitute a reason for refusal of the Licence. Reason 4 states that the introduction of a vertical element at such proximity to the carriageway on an extremely busy junction is considered a road safety hazard and may draw the attention of the motorist away from the road at a point where utmost attention is required.

Having regard to the existing pattern of development in the vicinity of the roundabout junction, including lighted advertising signage connected to the petrol filling station, and public lighting poles 15m in height, I consider that the proposed unlit streetpole would not be likely to attract undue attention from motorists using the junction, or give rise to traffic hazard or obstruction of road users.

## **3.0 Recommendation**

I recommend that the Licence be granted.

## **4.0 Reasons & Considerations**

Having regard to section 254 of the Planning and Development Act, 2000, as amended, to the provisions of the Kerry County Development Plan 2022-2028, the 'Telecommunications Antennae and Support Structures Guidelines for planning Authorities' (1996) (as updated by Circular Letters PL 07/12 and PL 11/2020

respectively), and to the existing pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure or detract from the visual amenities of the area or of the amenities of property in the vicinity, would not endanger public safety by reason of traffic hazard or obstruction of road users, and would be in accordance with the proper planning and sustainable development of the area.

## 5.0 Conditions

1. The development shall be carried 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 written particulars.

**Reason:** In the interest of clarity.

2. Prior to any works being carried out, the developer shall agree with the planning authority precise details of the siting of the proposed monopole, its base and associated equipment cabinet

**Reason:** In the interest of public safety and traffic safety.

3. Details of the colour scheme for the telecommunications structure and associated equipment cabinet shall be agreed with the planning authority.

**Reason:** In the interest of the visual amenities of the area.

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Des Johnson

Planning Inspector

2<sup>nd</sup> February 2024.

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.