

An
Bord
Pleanála

Inspector's Report ABP317978-23

Development

Telecommunications cabinet and associated pole.

Location

Public grass verge on north side of Skelly's Lane at junction with Whitethorn Rise, Dublin 5.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

TIL032-22.

Applicant(s)

Signal Infrastructure Ireland

Type of Application

Section 254 Licence Application.

Planning Authority Decision

Grant permission with conditions.

Type of Appeal

Third Party

Appellant(s)

Meabh and Karl Gardner on behalf of the residents of Whitethorn Estate and Beauvale.

Observer(s)

2 Observers

(1) Katie Moran

(2) Sean Haughey TD

Date of Site Inspection

06/11/2023.

Inspector

Anthony Abbott King

1.0 Site Location and Description

- 1.1. The site comprises a grass verge on the north side of Skelly's Lane adjacent to the public highway. The grass verge is defined by the edge of the public footpath and the property boundary to the north. The main carriageway is to the south of the footpath. Skelly's Lane is a the link road between Artane Village via Kilmore Road to Beaumont.
- 1.2. The surrounding area is characterised by residential suburban development with a housing estate known as Beauvale to the immediate north of the site and to the south is a housing estate known as Whitethorn Rise , which is located on the other side of the main carriageway.
- 1.3. The telecommunication street pole and associated cabinet were in situ on the day of my site visit. There is a public light stand proximate to the street pole to the immediate west.

2.0 Proposed Development

- 2.1. The development comprises the installation of a telecommunication 15m street pole and associated equipment cabinet.

3.0 Planning Authority Decision

3.1. Decision

Grant a 5-year licence subject to condition (26 conditions).

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning case officer recommends approval.

3.2.2. Other Technical Reports

The is no substantive objection to the proposal.

The Transportation Planning Division have no objection to the proposal.

It is noted that the movement of the proximate public light onto the 'new privately owned telecommunications asset' is not acceptable to the Public Lighting Division.

4.0 Planning History

None relevant.

5.0 Policy and Context

5.1. Development Plan

The following policy objectives of the Dublin City Development Plan 2022-2028 are relevant:

- The site is located immediately adjacent to the public carriageway and is not as such subject to a land use zoning objective. However, for the purpose of context the following is relevant.

The dominant area zoning objective is predominantly 'Z1' (Map B): *'to protect, provide and improve residential amenities'*.

Public service installation is a permissible use.

- Policy on telecommunications infrastructure is set out *inter alia* in Chapter 9 (Sustainable Environmental Infrastructure & Flooding), Section 9.5.11 (Digital Connectivity Infrastructure) , which *inter alia* states:

High quality digital connectivity infrastructure, both fixed and wireless, is essential to supporting Dublin's technology and digital service sectors and plays a central role in supporting the delivery of city services and the Internet of Things.

- Chapter 9, Policy objective S145 (The Support for Digital Connectivity) is relevant and states:

To support and facilitate the sustainable development of high-quality digital connectivity infrastructure throughout the City in order to provide for enhanced

and balanced digital connectivity that future-proofs Dublin City and protects its economic competitiveness (for further guidance see Section 15.18.5).

- Chapter 9, Policy Objective SI48 (Sharing and Co-Location of Digital Connectivity Infrastructure) is relevant and states:

To support the appropriate use of existing assets such as lighting, traffic poles and street furniture for the deployment of telecoms equipment and to encourage the sharing and co-location of digital connectivity infrastructure (including small cells, access points, communications masts and antennae) in order to avoid spatially uncoordinated and duplicitous provision that makes inefficient use of city space and negatively impacts on visual amenity and built heritage.

- Chapter 15 (Development Standards), Section 15.18.5 (Telecommunications and Digital connectivity) is relevant and *inter alia* states:

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.....

5.2. EIA Screening

5.3. The subject development does not fall within a class for which EIAR is required.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal statement is summarised below:

- The residents of Whitethorn and Beauvale estates have substantial concerns at the proliferation of telephone masts in the area. There is no serious consultation with local residents in regard to the concerns of the residents including consultations around the reasons and risks of telecommunications developments. The majority of local residents were unaware that the development was happening until alerted by installation;
- The appellant is not opposed to future proofing of community service needs. However, the needs of business are being put ahead of communities;
- The proposal is located close to homes, a GP surgery, St. Fiachras Senior and junior schools and is adjacent to a busy thoroughfare. The distance from the nearest home is 9m at Beauvale Estate and 20m from Whitethorn Rise. There is substantial research on the negative consequences of radiation emissions from telecommunications masts.
- The commitment of the applicant to build the infrastructure in accordance with health and safety legislation and guidelines is insufficient. Wireless radiation has now been listed by the World Health Organisation (WHO) as a possible carcinogen. The application needs to be reviewed *inter alia* in regard to alternative sites;
- The distance from our homes is 9m, distance to Doctor's surgery is less than 20m and the distance to St. Fiachra's Senior school is less than 650m. Teenagers and young children under 5 live within 200m. There is a busy bus stop 50-100m;
- The pictures submitted to the planning authority are very misleading as to the visual impact of the 15m telephone mast and what it would look like in place.

6.2. Applicant Response

The applicant response comprises a written statement, prepared by David Mulcahy Planning Consultants, and a visual impact assessment, which are summarised as follows:

- The street pole has now been erected. Therefore, a revised visual assessment, prepared by Jason Redmond Associates, is provided as part of the applicant response on appeal. It is accepted that a photomontage of the visual impact of the proposed development, that included 8 viewpoints, did not include a viewpoint at the entrance to Whitethorn Rise. The response notes that the appellant residence is located circa. 73m from the development.
- The applicant accepts that there is a clear view of the development now that it is in situ for drivers existing the Whitethorn Rise estate. However, it is not considered a view of concern given that it is not 'a permanent view from a dwelling'. In the matter of visual impact generally, the Board is referred to cited examples in ABP inspector reporting in the matter of the visibility of telecommunication infrastructure and their acceptability;
- The applicant notes that the rear elevation of no. 37 Beauvale Park does not face toward the development and this is given as a mitigation of the visual impact on the dwelling closest to the development site. The subject dwelling is 13.3m from the development rather than the 9m stated in the appeal statement. Furthermore, the impact of the proposed development was assessed by the planning authority who granted a licence;
- The bona fides of the appellant(s) are questioned as there is no list of signatures provided to demonstrate the extent of representation supporting the appellant - Meabh and Karl Gardner. The number of people involved in the appeal is not transparent. Therefore no mandate has been shown to demonstrate that this is representative of local residents of Whitethorn estate and Beauvale as claimed. The Board is asked to consider the appeal as solely representing Meabh and Karl Gardner;

- The health and safety issues in the matter of wireless radiation, arising from the proximity of the development to residential properties, the GP surgery and schools, is not relevant to this appeal and is addressed by Comreg.
- The appellant states that the site location is a well-used walkway for local children and that teenagers and young children under 5 live within 200m. However, the appellant does not make any specific point or ground of appeal in this regard other than on health and safety. The development is located on the grass verge and therefore there will be no interference with the public footpath.
- In the matter of the lack of public consultation with the residents of the Beauvale and Whitethorn estates, the applicant clarifies that a site notice was placed on the site location for 3 weeks (from the 9th September, 2022) as agreed with Dublin City Council albeit that there is no statutory requirement to provide a site notice in the licence process.

6.3. Planning Authority Response

None recorded.

6.4. Observations

The 2 number observations are summarised below.

Katie Moran, no. 26 Whitethorn Rise, Artane, Dublin 5

- The proposed development is located proximate to residential properties, which is inconsistent with the Telecommunications Antennae and Support Structures Guidelines (1996), which requires “only in a last resort” should free-standing masts be located in a residential area or beside schools. The proposal is less than 20m from residential property. There is no evidence the site was chosen as a last resort;
- The subject road and pathway beside the site location is a route to St Francis and St. David’s Junior and Secondary schools;

- There was no consultation with local residents about the need or demand for this service. There are many industrial estates in the area which would be more suitable for this type of infrastructure;
- The concerns of local residents have not been considered in the planning authority decision to grant the subject licence and the Board is urged to bear this in mind in their adjudication.

Sean Haughley TD, Leinster House

- The observer supports the appeal of local residents and advocates for refusal of the licence;
- There is a proliferation of telecommunications infrastructure in the area. This infrastructure comprises masts, cabinets and poles, which are unsightly and are visually obtrusive;
- There are health concerns in relation to the infrastructure and the local residents believe that such concerns have not been adequately investigated.

7.0 Assessment

7.1. The appeal is made under the provisions of Section 254 of the Planning and Development Act, 2000, which relates to licensing of appliances, cables etc. located on public roads. Section 254 (5) states that in consideration of an application for licence under Section 254 a planning authority, or An Board Pleanála on appeal, shall have regard to the following:

- (a) The proper planning and sustainable development of the area;
- (b) Any relevant provisions of the development plan, or 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.

This appeal relates to the installation of a 15m 'Alpha 3.0' telecommunication street pole, with 1 no. 2.75m antenna AW3836, and associated equipment cabinet (1.898m wide, 1.652m height & 0.798m deep). The service operator is 'Three'.

It is noted that the street pole and cabinet were in place on the day of my site visit.

The main planning considerations relevant to the appeal case are:

- no requirement for additional telecommunication structures and proliferation;
- visual impacts;
- other environmental impacts;
- public consultation;
- duration of licence
- appropriate assessment

7.2. In the matter of the proper planning and sustainable development of the area, the appellant claims *inter alia* that there will be significant visual and environmental impacts on residential properties and other land uses in the immediate vicinity including dwellings at Beauvale Park to the north (and located immediate to the property boundary with the public road adjacent to the site location) and Whitethorn Rise located across the carriageway to the south.

Justification for the proposal

The appellant claims that the site location is inappropriate given *inter alia* the proximity of residential property and that alternative sites need to be reviewed. The applicant justifies the requirement for the street pole and associated cabinet at this location by reason of a technical appraisal undertaken by radio engineers determining the requirement for new infrastructure within a search ring of 250m in order to provide improved service within an identified 'coverage blackspot' (letter of application submitted to the planning authority 20th September 2023). It is stated that 'Three' are upgrading the network in Dublin to provide customers with good quality voice and high-speed data services including residents and business customers in Whitethorn Rise.

It is noted that the accompanying coverage maps (Figures 5 & 6) show that indoor coverage was 'fair' before installation and that an excellent signal level is anticipated. In response to the need for a service upgrade, the subject site on the north side of Skelly's Lane was chosen to accommodate the infrastructure for the following reasons:

- It is within the 250 metres search ring corresponding to the coverage back spot;
- There is adequate space to accommodate the street pole and cabinet;
- There is fibre located close to this location to ensure connectivity with the network;
- The location will not interfere with other utility services and will not obstruct the footpath.

The letter of application to the planning authority spatially analysed other telecommunication sites (existing sites and alternative locations), including 'Three' sites 1 - 7 proximate to the target area and existing Comreg sites A-D in the general area (spatial range 256m-810m), which are not located close enough to the demand area to be a viable alternative.

The applicant notes that 'Three' Ireland has a policy to co-locate into existing telecommunications structures where possible and that 'Three' are live and transmitted on some of the Comreg sites identified. However no existing base station options were identified within the target search area that could be shared or upgraded to provide the necessary required coverage. On balance it is considered that the applicant has demonstrated the requirement for additional telecommunications infrastructure within the target area.

Potential visual impacts

The appellant cites potential significant visual impacts including visibility from no. 37 Beauvale Park. No. 37 Beauvale Park to the north of the site is the nearest residential property with a stated distance of 13.3m from the proposal. The back garden of no. 37 Beauvale Park is on the other side of the property boundary, which defines the back of the site location - the subject grass verge.

The applicant response on appeal notes that the rear elevation of no. 37 Beauvale Park does not face toward the development. The planning case officer states that the proposed development would not adversely impact residential amenities in terms of visual impacts: *in terms of proximity to the adjacent houses it is considered that the street pole would have a short visual impact.* The case officer notes that any structure which is introduced to an established streetscape will immediately look out

of place but will in a relatively short time become an normal part of the suburban streetscape.

The physicality of the structure can now be fully assessed including its visual impacts on road users and residents proximate to the development given that the street pole and cabinet are in place. It is acknowledged that the street pole is significantly taller and has greater physicality than the adjacent light pole to the immediate west. It is also acknowledged that there is a cumulative effect resulting from the clustering of street utilities including the light pole, adjacent traffic light and the telecommunication street pole and cabinet. However, on balance while it is considered that the proposal creates a noticeable change in the receiving environment, it does not result in a significant adverse visual impact.

Health and safety issues

The appellant has cited health and safety concerns arising from harmful radiation resulting from the operation of the subject infrastructure given the proximity of residential properties, a GP surgery and school(s) and the proliferation of telecommunications infrastructure in the area. Section 2.6 (Health & safety Aspects) of Circular Letter PL 07/12 states that planning authority should be primarily concerned with the appropriate location and design of telecommunication structures and do not have competence for health and safety matters, which are regulated by other codes. It is considered that the applicant in the letter of application and as clarified in the applicant response on appeal statement is compliant with planning and other guidelines.

Public consultation

The appellant cites the deficiency in public consultation on the location of the development and the reasons and risks of telecommunications infrastructure. The applicant response on appeal states that in the matter of the lack of public consultation a site notice was placed on the site for 3 weeks (from the 9th September, 2022) as agreed with Dublin City Council albeit that there is no statutory requirement to provide a site notice in the licence process. These matters are noted.

- 7.3. In the matter of relevant development planning and local area plan policy, having regard to the location and nature of the development, it is considered that the development would be consistent *inter alia* with Policy Objective S145 (The Support

for Digital Connectivity, Policy Objective SI48 (Sharing and Co-Location of Digital Connectivity Infrastructure) and Chapter 15 (Development Standards), Section 15.18.5 (Telecommunications and Digital connectivity), which *inter alia* requires that the 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.

- 7.4. In the matter of the number and location of existing appliances, apparatuses or structures, on under, over or along the public road, it is acknowledged that there is a cumulative effect resulting from the clustering of street utilities including the light pole, adjacent traffic light and the telecommunication street pole and cabinet. However, it is considered that there is no significant adverse impacts arising.
- 7.5. In the matter of the convenience and safety of road users including pedestrians, Transportation Planning Division of the planning authority has no objection to the proposal. It is noted that width of the footpath is 3m and the dept of the grass verge is approximately 2.5m. It is considered that the dept of the subject grass verge and the width of the footpath in the location of the development are sufficient to accommodate the footprint of the street pole and associated cabinet without obstructing pedestrian movements.

Duration of licence

- 7.6. The planning authority has approved a five year licence. Section 2.2 (Temporary Permissions) of Circular Letter PL 07/12 states that 'attaching a condition to a permission for telecommunication masts and antennae which limit their life to a set temporary period should cease' except in exceptional circumstances. Therefore, as no exceptional circumstance is highlighted, I consider a ten year licence is reasonable.
- 7.7. In conclusion, given the design and scale of the development, which does not result in adverse visual impacts in terms of its physicality, and its location on a grass verge between the public footpath and the property boundary with Beauvale Park within a footprint that does not obstruct movement along the footpath, it is considered that the development would be consistent with the relevant policy framework of the Dublin City Development Plan 2022-2028, would not have adverse impacts on residential

and visual amenities, would not inconvenience the safety of road users including pedestrians, and as such, would be consistent with the proper planning and sustainable development of the area.

7.8. Appropriate Assessment Screening

The proposed development comprises telecommunication infrastructure in an established urban area.

Having regard to the nature and scale of the proposed development it is possible to screen out the requirement for the submission of an NIS.

8.0 Recommendation

I recommend that a licence should be granted subject to conditions for the reasons and considerations as set out below.

9.0 Reasons and Considerations

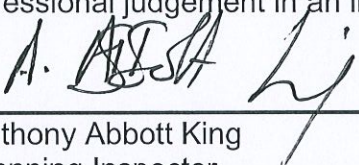
Having regard to the provisions of section 254 of the Planning & Development Act, 2000 (as amended), the grounds of appeal, the observations of third parties, the applicant response and given the design and scale of the development, comprising a 15m 'Alpha 3.0' telecommunication street pole with 1 no. 2.75m antenna AW3836 and associated equipment cabinet, which does not result in adverse visual impacts in terms of its physicality, and its location on a grass verge between the public footpath and the property boundary with Beauvale Park, within a footprint that does not obstruct movement along the public footpath, it is considered subject to compliance with the conditions set out below that the development would be consistent with the relevant policy framework of the Dublin City Development Plan 2022-2028, would not have adverse impacts on residential and visual amenities, would not inconvenience the safety of road users including pedestrians, and as such, would be consistent 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>(a) This licence shall apply for a period of ten 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, continuance shall have been granted for their retention for a further period.</p> <p>(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 licence.</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>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
4.	<p>The antenna type and mounting configuration shall be in accordance with the details submitted with this application for a licence, and notwithstanding the provisions of the Planning and Development Regulations 2001, and any</p>

	<p>statutory provision amending or replacing them, shall not be altered without a prior grant of permission.</p> <p>Reason: To clarify the nature and extent of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations.</p>
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"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".



Anthony Abbott King
Planning Inspector

04 December 2023