



An
Bord
Pleanála

Inspector's Report ABP319184-24

Development	Erect an telecoms mast, cabinet and associated equipment.
Location	Between the Naas Road/Old Naas Road and Bluebell Avenue/Old Naas Road Junction, Dublin 12.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	TIL007-22 .
Applicant(s)	Signal Infrastructure Ltd
Type of Application	Section 254 Licence
Planning Authority Decision	Grant
Type of Appeal	Third Party v Grant
Appellant(s)	Peter O'Neill
Observer(s)	None
Date of Site Inspection	20 th June 2024
Inspector	Hugh Mannion

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1.0 Site Location and Description

- 1.1. The site, with an area of approximately 7sq.m, is located within a small open space area, at the junction of the Old Naas Road and Bluebell Avenue, Dublin 12. There are some semi-mature deciduous trees in this grassed area with footpaths around and through it. There is public lighting in the area. There are double yellow lines on all road frontages around about. There is a wide array of utility cabinets and manholes scattered throughout this open space area, with some public signage also. There is no public seating. The Red Luas line Bluebell stop is located a short distance to the east. There is a terrace of two-storey houses a short distance to the northwest. Our Lady of the Wayside RC church (a Protected Structure) is located approximately 80m to the northwest. To the south is the signal-controlled junction of the Naas Road and the Old Naas Road. To the north is a three-storey block of shops/flats. 'Naisetra House', (a Protected Structure) is located some 50m to the southwest, behind a 2m high concrete boundary wall and screen planting.

2.0 Proposed Development

- 2.1. The proposed development comprises the erection of a telecommunications cabinet (1.16m long x 0.79m wide and 1.65m high) and associated 18m high pole (0.32m diameter) with mobile telephony attached. An existing lamp standard, immediately to the northwest of the proposed cabinet location is to be removed, and the lighting fixture attached to the new pole. The development is stated to be replacing an existing Vodafone mast (DN148) – located some 257m to the southeast.

3.0 Planning Authority Decision

3.1. Decision

Grant a licence under Section 254 of the act subject to 23 conditions. The licence has a limited lifetime of 5 years from the date of the grant.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There is a report, dated 9th May 2022, objecting to the proposed development: stating that it would be more appropriately located in an industrial area.

There is a report from the Deputy City Planner (undated), which states there is no objection to the development.

There is an e-mail from the Planning Department, dated 10th June 2022 – stating that there is no objection.

3.2.2. Other Technical Reports

3.2.3. Transportation Planning Division

The report, dated 12th May 2022, raises no objection to the proposed development.

3.2.4. Parks Bio-diversity & Landscape Services Division

E-mail, dated 12th May 2022, suggesting an alternative location in the near vicinity.

3.2.5. Public Lighting & Electrical Services

There is an e-mail, dated 18th May 2022 (with earlier ones attached), objecting to the development. The power supply to a public light must be in the control of DCC.

3.2.6. Environment & Transportation Department

There is an undated report (which appears to summarise all the other DCC reports), and which recommends refusal of the licence.

4.0 Planning History

No recent relevant planning history.

5.0 Policy and Context

5.1. The Dublin City Development Plan 2022-2028 is the relevant Development Plan for the area.

5.2. The site is not zoned. Section 15.18.5 of the Plan deals with telecommunications and digital connectivity and is as follows.

- All new developments will be required to provide for open access connectivity arrangements directly to individual premises to enable service provider competition and consumer choice in line with Policy SI45 of the development plan.
- 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. These factors will be carefully considered when assessing proposals in a designated conservation area, open space amenity area, historic park, or in the vicinity of protected buildings, special views or prospects, monuments or sites of archaeological importance. The location of antennae or support structures within any of these areas or in proximity to protected structures, archaeological sites and other monuments should be avoided.
- Where existing support structures are not unduly obtrusive, the City Council will encourage co-location or sharing of digital connectivity infrastructure such as antennae on existing support structures, masts and tall buildings (see Policy SI47). Applicants must satisfy the City Council that they have made every reasonable effort to share with other operators.

5.3. Policy SI45 states, in relation to 'Support for Digital Connectivity' -

- 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).

5.4. Policy SI48 states, in relation to ‘Sharing and Co-Location of Digital Connectivity Infrastructure’ –

- 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 [sic] provision that makes inefficient use of city space and negatively impacts on visual amenity and built heritage.

5.5. **Natural Heritage Designations**

None relevant in this case.

5.6. **EIA Screening**

The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- Dates on correspondence from DCC are incorrect and confusing. It appears that the licensing of this structure was a “done deal”.
- The site notice only came to the attention of residents, after the closing date for objections. It faced one direction only and was not erected on a proper display board.

- The mast will be ugly and visually dominate the area. It will draw attention away from the trees of the area. The mast will be even more noticeable when leaves fall from the trees.
- The community has been engaging with DCC in relation to the regeneration of Bluebell. This proposal goes against the working relationship built up between Council and residents.
- Such a mast would not be tolerated on green space within more affluent areas of the city.
- The green space is cared for by the community and contributes to biodiversity and amenity.
- There are other more appropriate locations for the mast within a short distance of this site – only 257m away from the Vodafone mast it is replacing.
- The mast will detract from nearby listed buildings.
- The mast will constitute a health hazard for those who live in the area.
- This mast will only serve Vodafone customers. It makes sense to have one mast shared by all mobile telephone companies.
- The site is public open space and not a public road.
- The site is too close to 11 mature trees; and will result in damage to the root spread of the trees.

6.2. **Applicant Response**

- The claim that dates on correspondence from DCC to the appellant were incorrect, are matters for the parties concerned, and should not form part of the assessment of An Bord Pleanála.
- There is no supporting evidence that the appellant represents anybody other than himself.
- There is no legal requirement for a site notice. DCC have asked applicants for licences to erect site notices, and the applicant complied with this request.

- A visual impact assessment was submitted with the application for the licence. The site is on an isolated area of open space – set back from any house. The development is slim-line in nature, and will be read as a typical element of street furniture. It is accepted that the development will be visible from the surrounding road network. However, it will be partially obscured by trees, when in leaf. Such street-poles are unremarkable in appearance and quickly blend into the background.
- Similar infrastructure has been licensed by DCC and An Bord Pleanála in other areas of the city. The applicant rejects any suggestion that lower socio-economic areas are targeted for such infrastructure. The applicant is trying to address a blackspot in coverage. The enhanced coverage will be of benefit to local people.
- The site is on passive green space – not active green space. The site has no zoning. It is located between busy roads. There will be no material impact on the use of this space. The footprint of the development is small.
- The pole cannot be located within an industrial area – as this would not be able to give coverage to the blackspot. The landowner of the original mast no longer wants a Vodafone mast on his property.
- ‘Naisetra House’ is located 50m from the development site; and is well-screened by a wall and mixed deciduous and evergreen planting. The church of Our Lady of the Wayside is located 90m from the site; and there is only an oblique view of the site from this building. The character and setting of the two protected structures will not be materially affected by the development. The DCC Conservation Officer did not raise any objections.
- Health is not a planning consideration. The development will be erected within current health and safety legislation and guidelines. Comreg is the appropriate authority in this area. The equipment is designed to be in full compliance with the limits set by the Guidelines of the International Commission on Non-Ionising Radiation Protection.

6.3. Planning Authority Response

6.4. Subsequent to the High Court decision to set aside the previous Board's decision in this case all parties were invited to make final comments in relation to the case. The planning authority responded that it had no further submissions to make.

6.5. Observations

- None

6.6. Further Responses

- None

7.0 Assessment

7.1. Section 254 Application Process

7.2. This assessment will address the grounds of appeal and the matters to which the Board should have regard as set out in Section 254(5) of the Planning and Development Act, 2000 (as amended). These matters are:

- the proper planning and sustainable development of the area,
- any relevant provisions of the development plan, or a local area plan,
- the number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and
- the convenience and safety of road users including pedestrians.

7.3. The PA's handing of the application.

7.4. The appeal makes the point that there is some confusion in relation to the dates of correspondence on the application file and that the site notice was not easily visible.

7.5. I comment in the context that the Board has no supervisory function in relation to how the matter is dealt with at application stage and is constrained to consider only

the matters set out in the Planning Acts and, generally, the proper planning and sustainable development of the area.

7.6. Development Plan Considerations

7.7. The site is not zoned and comprises a well-maintained green area at the junction of the Naas Road, Old Naas Road and Bluebell Avenue. It does not function as active public open space, but does have visual amenity value. I note that there is no seating within the area.

7.7.1. 'Naisetra House' is a Protected Structure, located some 50m to the southwest. The curtilage is defined by a 2m high concrete wall on the Old Naas Road side – inside which there is a mix of deciduous and evergreen planting. The wall and planting effectively screens the two-storey house from view from the proposed mast site. The mast and cabinet will not have any impact on this Protected Structure. Our Lady of the Wayside RC church is a Protected Structure located some 80m to the northwest of the site. There is a terrace of two-storey housing between the church and the mast site. The site is visible from the church, but only in oblique view. The separation distance, the existence of other upstanding utility poles/structures, the presence of semi-mature trees within the open space area, and the limited nature of the development will ensure there is no impact on this protected structure.

7.8. Impact on Amenities of the Area

- 7.8.1. The appeal makes the point that the proposed mast will be visually dominant in the area and detract from the visual amenity of the area.
- 7.8.2. The proposed mast is located on a green space which has several trees. The space is not very useful as public amenity space as it is crisscrossed by footpaths and surrounded by roads. Nonetheless it has a certain visual amenity value as it provides a buffer between the residential/commercial/community uses to the west and north and the Luas line/Naas Road.
- 7.8.3. The closest house to the proposed mast is no. 1A Bluebell Avenue – some 30m from the site. There is a line of commercial premises (a Centra minimarket, a Pharmacy and others) on La Touche Road immediately to the north of the application site and a Church to the west on Bluebell Avenue.

- 7.8.4. In this instance a balance must be struck between the amenity of the area generally and the potential for unacceptable visual clutter arising from the proposed mast and associated equipment. The applicant makes the case that the relocation of the mast to the proposed site is necessary to ensure mobile coverage in the area. It is national policy and local policy set out in the City Development Plan to support and enhance the provision of telecommunications connectivity in the country and the city. The area is not ecologically important, and the proposal will not have any unacceptable ecological impacts.
- 7.8.5. The immediate area of the application site accommodates contains a wide array of utility cabinets, signage, lamp-posts and manholes of different utilities. There is a bus shelter at the northeastern end of the open space, there is a large JC Decaux advertising sign beside that bus stop. In the centre of the dual carriageway is a covered Luas shelter. There are several traffic lights and overhead Luas wires and the poles that hold these up. I conclude on this point that a relatively modest telecoms mast will blend into this somewhat crowded public realm and does not give rise to serious injury to visual amenity in a manner as to require refusal of permission.

7.9. Justification and Need for Proposal

- 7.10. The appeal makes the point that there are more appropriate locations for the mast.
- 7.11. The applicant states that the proposed mast will replace an existing Vodafone mast (DN148 on drawings submitted), which is located some 250m to the southeast, within an industrial area. In that case the landowner no longer wishes to host a communications mast on his property, and so the applicant is seeking alternative sites which would provide coverage to an identified black spot. The mast is designed to serve an identified back spot where telecoms coverage is limited.
- 7.12. Details of existing indoor coverage have been provided, with an indication of the improvement in indoor coverage when the mast is erected. Existing communications sites in the wider area were identified, but ruled out, because they were located outside the 200m diameter search ring. The applicant provides infrastructure to mobile telephone operators as well as to radio, broadband and emergency communications providers.

7.13. I consider that a single user telecoms pole is justified in this instance as one serving several telecoms operators would be larger and more intrusive. I concluded that the location is justified.

7.14. Road Safety

7.15. The erection of a mast and cabinet would not have any impact on the safety of road users or pedestrians – being located within a grassed area, and not obstructing any road or footpath. The development will not obstruct sight visibility of motorists or pedestrians.

7.16. Exempted Development

7.17. Circular Letter PL 11/2020 relating to Telecommunications Services – Planning Exemptions and Section 254 Licences, was issued on 17th December 2020. It clarifies that a licence is required for overground electronic communications infrastructure and associated physical infrastructure, but that such works are exempt from planning permission. Whilst a licence is required for such works, section 254(7) further provides that development carried out in accordance with a licence issued under this section, shall be exempt development.

7.18. Health Impacts.

7.19. The appeal makes the point that the proposed mast can constitute a health hazard for local residents.

7.20. The Telecommunications Antennae and Support Structures Guidelines for Planning Authorities make the point that the WHO has undertaken research on the basis of which they and other organisations have concluded that there is no material risk to human health from radiation origination from the telecommunications infrastructure. Circular letter PL07/12 makes the point that “the 1996 Guidelines advise that planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds. This Circular Letter reiterates that advice to local planning authorities. Planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by

other codes and such matters should not be additionally regulated by the planning process". Comreg is the appropriate authority in this area. The equipment is designed to be in full compliance with the limits set by the Guidelines of the International Commission on Non-Ionising Radiation Protection

7.21. Other Issues

7.22. The appeal makes the point that the local community has been engaging with the planning authority in relation to the regeneration of Blubell. For reasons set out above I consider that no unreasonable negative impacts will arise from the proposed development and therefore that it would not undermine any community/planning authority sponsored regeneration plans.

7.23. Circular PL 07/12 states that the attachment of conditions to permissions for telecommunication masts and antennae which limit their life to a set temporary period should cease. However, given that this appeal relates to a Section 254 licence application for development on public land, it is considered reasonable that the licence be granted for a specified duration as provided for under Section 254 (4) of the Planning and Development Act, 2000 (as amended). This will enable the planning authority to re-assess the suitability of proposed development at the end of the appropriate period, in light of any changed circumstances pertaining at that time. Condition 23 of the Licence indicated that it was for a period of 5 years. In allowing the granting of the licence, the Board should attach a condition relating to a similar five-year period.

7.24. It would be appropriate to attach a condition to the licence restricting its use for advertising purposes – in the interest of visual amenity. Condition 7 of the licence issued by DCC addressed this issue.

7.25. Appropriate Assessment Screening

7.26. Having regard to the nature and scale of the proposed development, to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

8.1. I recommend a grant of permission.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of section 254 of the Planning and Development Act 2000, as amended, to national, regional and local policy objectives, as represented in the Dublin City Development Plan 2022-2028, to support the development of a sustainable telecommunications network throughout the city, to the Department of Environment, Heritage and Local Government section 28 Statutory Guidelines, "Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities, 1996, as updated by circular letter PL 07/12 in 2012, and to the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. 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 licence application except as may otherwise be required in order to comply with the following conditions.</p> <p>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>This licence shall be valid for five years from the date of this Order. The</p>

	<p>telecommunications structure and related ancillary structures shall then be removed and the lands reinstated on removal of the telecommunications structure and ancillary structures unless, prior to the end of the period, continuance shall have been granted for their retention for a further period.</p> <p>Reason: To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the specified period.</p>
3.	<p>Details of the proposed colour scheme for the telecommunications structure and ancillary structures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
4.	<p>No additional dishes, antennae or other equipment, other than indicated on Drg. No. SR_1449-105 Rev. A, received by the planning authority with the application, shall be attached to the pole or otherwise erected on the site, without first obtaining the written consent of the planning authority.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>No advertisement or advertisement structure shall be erected or displayed on the proposed structure or within the curtilage of the site.</p> <p>Reason: In the interest of the visual amenities of the area.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Hugh Mannion
Senior Planning Inspector

26th June 2024.