



An
Bord
Pleanála

Inspector's Report

ABP-319261-24

Development	Installation of 1 no. telecommunications cabinet and a pole of 15m in height.
Location	Glengear Road Upper, Dublin 18
Planning Authority	Dun Laoghaire Rathdown County Council
Planning Authority Reg. Ref.	CTT.21.020
Applicant(s)	Signal Infrastructure Limited
Type of Application	Permission.
Planning Authority Decision	Grant Licence
Type of Appeal	Third Party v Refusal
Appellant(s)	Brian & Cliona Hickey and others;
Observer(s)	None;
Date of Site Inspection	23 rd May 2024
Inspector	Niall Sheehan

1.0 Site Location and Description

- 1.1 The appeal site is to the footpath to the northern side of R829 Glenageary Road Upper, c.130m from Killiney Towers roundabout due east. The telecommunications structure is located to the footpath to the northern side of Glenageary Road Upper to the rear the mutual boundary between No.6 and No.7 Sharavogue. The surrounding area is predominantly residential and mostly comprises of detached standalone residential development (two-storey dwellinghouses to the northern side of Sharavogue in Glenageary Hall and Feldberg Road). The footpaths to either side of Glenageary Road Upper are wide and accommodate lighting structures, electricity poles and other utilities.

2.0 Proposed Development

- 2.1. The telecommunications structure comprises of a 15m high operator wireless broadband and data communications galvanised pole with internal cables and an antenna encased inside the top of the pole. The streetpole has a diameter of 324mm-406mm (at the shroud). The development includes supporting ground-based equipment cabinet (1.65m high, 1.2m wide and 0.8m deep). The pole and associated equipment is coloured light grey (steel grey). The cabinet is coloured green. Eir is the operator.
- 2.2. The licence application was accompanied by a covering letter, planning statement and photomontages.
- 2.3. The stated purposes of the proposed structure is to address mobile phone and mobile broadband coverage blackspots.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 Planning Authority Reg. Ref. CTT.21.020; Licence Number: CRM225967)
- 3.1.2 By letter dated 9th July 2021, Dun Laoghaire Rathdown County Council decided to grant the licence subject to standard conditions.

3.1.3 Most notably these included a duration of 5 years, no other equipment to be attached to the telecommunications structure, maintenance of structure, removal in the event of obsolescence.

3.2. Planning Report

4.1.1 The Planning Report had regard to the matters listed under Section 254(5) of the Planning and Development Act, 2000 (as amended) including compliance with policy, and visual impact and residential amenity having regard to the number of existing appliances/apparatus in the area.

The Case Planer was in favour of granting the licence as they did not consider the proposal to have a significant negative impact on the surrounding residential and visual amenity. They considered that the proposal would thus comply with the zoning objective of the Development Plan.

4.2 Other Technical Reports

- Traffic Department: No comment;
- Roads Control Section: No comment.

4.3 Prescribed Bodies

None

4.4 Third Party Observations

4.4.1 1 no. from Cliona and Brian Hickey, No.7 Sharavogue;

The matters raised are generally reflected in the grounds of appeal.

5.0 Planning History

5.1 Appeal Site

Planning Authority Reg. Ref.: 3622.

Section 5 Declaration. Declared not exempt on the 29/04/2022.

Decision: The telecommunications mast is not exempted development in its current location. Its location is in breach of the licence (CRM225967)

Outcome: Mast was relocated a distance of 15m further east of its current position as part of licence CRM225967.

5.2 No.7 Sharavogue (c.40m to the north west)

Planning Authority Reg. Ref.: DC22A/0238;

Description of Development: (as summarised) Modify footpath and wall at rear of 7 Sharavogue to Glenageary Road Upper (R829) to construct entrance, two storey semi-detached two-bedroom townhouses.

Decision: Refused permission on the 27th May 2022.

Reasons for Refusal:

1. Overdevelopment of the site, contrary to Section 12.3.7.6 Backland Development; Substandard level of residential amenity for future occupants; Detrimental impact on the residential amenity of neighbouring properties; Contravene to land zoning objective 'A' of the Dun Laoghaire Rathdown County Development Plan 2022-2028.
2. Negative impacts on the road network (R829 - shared entrance onto). Contrary to Policy Objective T23;
3. The proposed development would result in a traffic hazard

5.3 To the east of Killiney Towers Roundabout c.130m due east

Planning Authority Reg. Ref.: LC06D.312622 / CTT/21/028;

Description of Development: Installation of communications infrastructure (Three).

Decision: Granted permission on the 01st June 2022. (Installed since)

6.0 Policy Context

6.1 National Guidelines

The Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996 set the criteria for the assessment of telecommunications structures. The Guidelines state that the rapid expansion of mobile telephone services in Ireland has required the construction of base station towers in urban and rural areas across the country. These are an essential feature of all modern telecommunications networks. The Guidelines also set out that in most cases an applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters. However, the sharing of installations and clustering of antennae is encouraged as co-location will reduce the visual impact on the landscape (Section 4.5).

In Section 4.3, the visual impact of masts is acknowledged as being among the more important considerations which must be considered in arriving at a decision on a particular application and this will vary depending on the general context of the telecommunications structure. The Guidelines also state that some masts will remain quite noticeable despite best precautions.

Universal Design Guidelines

- Section 9.6.5 Licensing
- Section 254 of the Planning and Development Act 2000 (as amended and consolidated) refers to the licensing of appliances apparatus and structures on the public road.
- The placing of such appliances, apparatus and structures on public roads and pavements can be of particular concern in terms of enabling access and ease of movement for everyone.
- When assessing licensing applications, local authorities, should ensure that accessibility for all users is maintained.

6.2 Circular Letters

Circular Letter PL 07/12 updated and revised certain sections of the 1996 Guidelines under Section 2.2 to 2.7.

Section 2.2 advises that only in exceptional circumstances, where particular site or environmental conditions apply, should a permission issue with conditions limiting its life.

Section 2.3 advises that planning authorities should avoid including minimum separation distances between masts or schools and houses in their Development Plans.

Section 2.4 advises future permissions should simply include a condition stating that when the structure is no longer required it should be demolished, removed and the site re-instated at the operator's expense, as opposed to conditioning a security bond in respect of removal.

Section 2.5 recommends the creation and maintenance of a register or database of approved telecommunications structures by each planning authority in cooperation with operators.

Section 2.6 reiterates the advice in the Guidelines in that the planning authorities should not include monitoring arrangements as part of the planning permission conditions nor determine planning applications on health grounds. These are regulated by other codes and such matters should not be additionally regulated by the planning process.

Circular Letter PL 11/2020 clarifies telecommunications infrastructure along public roads carried out in accordance with a section 254 licence is exempt from planning.

Section 254(5) of the Act outlines the criteria to which the Planning Authority shall have regard in assessing such licence proposals:

- (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.

6.3 Development Plan

This appeal is considered under the Dun Laoghaire Rathdown County Development Plan 2022-2028 which came into effect on the 21st of April 2022. The planning authority decision of the was made under the previous plan for the period 2016-2022. The subject site is zoned Objective A, with the objective *'To provide for residential development and improve residential amenity while protecting the existing residential amenities'*. Public services such as a telecommunications structure are *'Permitted in Principle'*.

Relevant telecommunications policy is as follows:

Policy Objective EI20: (Telecommunications Infrastructure): To promote and facilitate the provision of an appropriate telecommunications infrastructure, including broadband, fibre optic connectivity and other technologies, within the County.

Section 12.9.8 of the Development Plan sets out the specific requirements relating to telecommunications antennae and support structures, applicants will be required to demonstrate compliance with, as follows:

- Compliance with the Planning Guidelines for 'Telecommunications Antennae and Support Structures' (1996), and Circular Letter PL 08/12 issued by the Department of the Environment and Local Government (as may be amended from time to time), and to other publications and material as may be relevant in the circumstances;
- On a map the location of all existing telecommunications structures within a 1km 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 Regulation;
- To what degree 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.

- Any impacts on rights-of-way and walking routes;
- That the proposal shall not have a significant negative visual impact;

6.4 Natural Heritage Designations

The site is not located within a designated Natura 2000 site, it does not adjoin such a site nor is it within the zone of influence of such sites. The nearest sites are the Dalkey Islands SPA c.1.5km due east (Site Code: 004172), and, the South Dublin Bay and River Tolka Estuary SPA c.2.5km due north west (Site Code: 004024).

6.5 EIA Screening

The development to be retained is not a class of development set out in Schedule 5, Part 1 or Part 2 of the Planning and Development Regulations 2001 (as amended) and therefore a preliminary examination is required.

7.0 The Appeal

7.1 Grounds of Appeal

7.1.1 The appeal is submitted by Brian and Cliona Hickey (No.7 Sharavogue, Glenageary Road Upper) and others who reside directly to the north of the appeal site. The grounds of the appeal are as follows:

- On the 24th of May 2023, the structure was erected in its current position having been moved from the rear of No.5 Sharavogue subsequent to correspondence with the Ombudsman;
- The structure causes obtrusive visual impingement and devalues property as a result;
- The structure is considerably higher than existing lampposts;
- The structure is currently fully visible to No.6 Sharavogue and will also be to No.7 later this year when trees to their rear garden are to be topped;

- The first party's licence application report which details the 'location of all existing telecommunications structures within 1km stating the only other base station within 1km at a rooftop off Adelaide Road (Vodafone) is no longer accurate;
- Three's Killiney Towers Roundabout could be shared by both providers;
- The placement of Three's structure is far less intrusive and does not cause a visual impingement to residents/anyone.
- Ask that An Bord Pleanála to engage with telecommunications providers to seek agreement to share the existing mast at Killiney Towers Roundabout, or, relocate to a less intrusive location;
- The Planning and Development Regulations 2001 as amended and consolidated state a height of 12m for exempted development for overhead telecommunications including support structures;
- There was no community engagement to place a structure along Glenageary Road Upper.

7.2 Appeal Response

An appeal response has been submitted by the first party. The issues raised are set out below. In summary, the first party reiterated the justification and need for the proposal, the site selection, options discounted and detailed the design of the structure and associated cabinets.

In relation to the grounds for appeal the first party responded that:

- There is only reference to Brian and Cliona Hickey of No.7 Sharavogue as the appellants. There is no reference to Emma and Colin McNab of No.6 Sharavogue;
- In Appendix 1 of the appeal there is an unsigned appeal dated 19.02.2024 which refers to Brigid Jacobs at No.6 Sharavogue, hence there is confusion as to who lives at No.6 Sharavogue;
- No.7 Sharavogue including its rear garden is not orientated in the direction of the streetpole. It is further contended that the structure is not directly at the rear of No.6 Sharavogue, however located to the shared boundary of No.'s 6 and 7 Sharavogue.

- It is the preserve of No.7 Sharavogue to cut the trees in their property if they so wish and if this results in the structure becoming more visible as a result, this is outside the control of the applicant;
- The appellants claim there is no requirement for the Eir streetpole given Three have a mast located approximately 130m from the site at Killiney Towers Roundabout and both Eir and Three could share this mast;
- The first of these telecommunications structures to be granted by Dun Laoghaire Rathdown County Council was that of the current appeal which was granted on the 09.07.2021 (applied for also);
- There was a specific search ring to meet Eir's requirements in the area, particularly to the south and east of the site;
- Subsequently, Three identified a specific requirement in the area which was poorly served. This licence (ABP Ref. 312622-22) was granted on appeal on the 1st of June 2022;
- An Bord Pleanála have already accepted the principle of two separate solutions, and this was reviewed as part of the previous appeal (ABP Ref. 312622-22);
- There is no evidence provided to support the devaluation of their properties resultant of visual impacts;
- Appellants claim a 12m height restriction applies to telecommunications structures. This only refers to exempted development under Class 31(b) of the Planning and Development Regulations. The S254 licence application was made under the 2000 Planning and Development Act (as amended and consolidated);
- There is no legal obligation upon the applicant to undertake community engagement.

7.3 Planning Authority Response

- No response by Dun Laoghaire Rathdown County Council.

7.4 Further Responses

- None

8.0 Assessment

8.1 Repositioning of the structure

- 8.1.1 I have noted that the structure was repositioned having initially being erected in a different location to the rear of No.5 Sharavogue some 15m to the west. As I understand its initial siting was to facilitate an adjoining planning application which was ultimately refused (Planning Application Reg. Ref. DC22A/0238 detailed in 'Planning History'). The current position is the correct position as per the Section 254 licence application (including all drawings and documentation) subject of this appeal.
- 8.1.2 I also note that there is no time limit for making an appeal in respect of a Section 254 licence decision.

8.2 Principle

- 8.2.1 Both National policy and the Development Plan support appropriate telecommunications infrastructure including broadband. From the details accompanying the application and the appeal, the proposed 15 metre telecommunications pole and associated cabinet is required to support the roll out of 3G and 4G networks and address high speed mobile broadband coverage and capacity issues in the surrounding area.
- 8.2.2 The location of the telecommunications structure is in an area zoned 'Objective A' which the objective is to protect/improve residential amenity. I noted that the Development Plan facilitates Telecommunications Infrastructure in the county with electronic communications infrastructure 'Permitted in Principle'.
- 8.2.3 The Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996 (the Guidelines) identify the criteria for the assessment of telecommunications structures. They encourage co-location of antennae on existing support structures and for new antennae to locate within existing industrial estates, or, industrially zoned land, in the vicinity of larger suburban areas or towns, insofar as possible.
- 8.2.4 I note that the applicant has stated that the location was chosen using a tailored search ring provided by the operator's radio engineers specifically to provide indoor coverage for a large deficient blackspot in the area on Eir's Mobile Network.

- 8.2.5 I note the applicant has confirmed that no existing sites or structures are suitable to facilitate the co-location of the telecommunications structure given coverage and that options, including alternative locations, have been looked at. With specific regard to the Three mast which has been erected c.130m to the east on foot of a section 254 licence application granted at appeal (ABP 312622-22), it is noted in this appeal that due to technology limitations a high capacity, multi-operator streetpole solution was not available and, therefore, the EIR and Three Communications infrastructure could not be co-located together. Although I note the relative close proximity at c.130m, given the siting and also road alignment, there is very little intervisibility of both structures present.
- 8.2.6 I also note that the Section 254 licence for the subject telecommunications structure at Glenageary Road Upper was applied for and approved prior to Three's telecommunications structure at Killiney Towers Roundabout c.130m due east (subject of appeal ABP 312622-24). It was also installed prior to Three's albeit at a location c.15m due west which resulted in it being moved to its current location.
- 8.2.7 Other telecommunications structures within 1km of the site at the time of the application were identified in a Comreg Map. These include 3 no. locations c.1km away near Sallynoggin Roundabout to the west (freestanding monopole), and, 1 no. structure to the rear of St. Paul's Church of Ireland and Parish Centre off Adelaide Road c.600m to the north west (rooftop solutions).
- 8.2.8 I consider that the applicant has provided sufficient information to justify the need for the telecommunications structure. Taking into consideration the emphasis placed in national and regional policy documents on the provision of adequate telecommunications including broadband and the fact that the policies and objectives of the current Development Plan reflect this priority, I consider that the principle of the development is acceptable.

8.3 Visual Impact and Impact on Residential Amenity

- 8.3.1 The Planning Section of Dun Laoghaire Rathdown considers the telecommunications structure would not result in significant negative impact on the surrounding residential and visual amenity.
- 8.3.2 In the first instance, I note that the area is not designated to reflect a particular sensitivity and is also not in, or in proximity to any views or prospects or structures

listed for protection in the development plan. I also note the visual character of the area is synonymous with a suburban location.

- 8.3.3 For the purposes of clarity, the telecommunications structure is not visible from the Marlborough Road Architectural Conservation Area or the Adelaide Road Candidate Conservation Area c. 200m and c.250m north of the structure respectively.
- 8.3.4 As the structure is already in situ, it can be viewed from different vantage points in proximity. The structure is evident from close up on either side of Glenageary Road Upper and also on entry to Glenageary Road Upper from Glenageary Hall. The full extent of the telecommunications structure including both the mast and cabinet is however only significantly visible in these relatively close up views.
- 8.3.5 Whilst I acknowledge the structure is visible from the rear gardens of No.'s 5, 6 and 7 from Sharavogue (as discussed in later paragraphs), it is not significantly visible from the front of Sharavogue due to the presence of detached houses obscuring views (to the background). The very top of the structure is visible over the roofs of No.'s 5, 6 and 7, however I do not consider that this would have a direct negative visual impact from the front of these properties.
- 8.3.6 I consider that the structure is not of a design or scale that would be out of character, visually obtrusive or an incongruous element in an urban area such as this. I also note that public utilities, namely lighting and signage are synonymous with urban locations. I consider that the non-descript design will be absorbed into the background in more distant views and its height and colour will be contextualised by existing lampposts in the area without giving rise to excessive visual clutter. The ground-based cabinets will introduce a new structure to the public realm, potentially more evident to pedestrians, cyclists and slow-moving motorists, however, these structures are commonplace in verge locations in the urban environment.
- 8.3.7 With regard to residential amenity impacts, particularly to No.'s 5, 6 and 7 Sharavogue, the structure is located c.27m from No.5, c.23 m from No.6 and c.26m from No.7. Given the location to the other side of the rear boundary wall of these properties (dividing Sharavogue from Glenageary Road Upper), a new vertical element is evident from the rear of these properties. Notwithstanding, I note that the structure is not in the direct line of sight (of No.'s 5, 6 or 7), and, having regard to the encased antennae and the sky grey colour, I do not consider it to be so visually disruptive to injure their visual and residential amenity to an unacceptable degree.

This specific piece of analysis is irrespective of vegetative growth or the absence thereof to any or all of the above properties.

8.3.8 In addition to the above, it is important to contextualise the siting on a busy road in an urban location amongst existing utilities, and, while the structure is more visible, I do not consider that it is so visually disruptive to seriously injure the residential amenity of surrounding properties.

8.3.9 In summary, I do not consider that the structure presents as overly dominant, overbearing visually intrusive feature, nor would it lead visual clutter in this setting. I therefore consider the proposal to be acceptable from a visual impact and residential amenity perspective in accordance with the provisions of the County Development Plan including Policy Objective EI20 and the development management requirements in Section 12.9.8.

8.4 Clarification of Tree/Planting Cover

It is stated as part of the appeal that trees to the rear of No.7 Sharavogue will be topped later this year and this will reveal the full magnitude of the telecommunications structure. In response to this, I am of the view that it is the prerogative of No.7 Sharavogue to cut the trees (not subject to any preservation order) if they so wish. As per Section 8.3 above, I do not consider there to be overly significant visual or residential amenity impacts as a result of the structure irrespective of vegetative /tree cover (or the absence thereof).

8.5 Devaluation of property

With respect to any devaluation of any residential property in the surrounding area, no evidence has been submitted to support this. Having regard to this assessment, I am satisfied that the telecommunications structure does not seriously injure the residential amenity or amenities of the area to such an extent that would adversely affect the value of any property in the immediate vicinity.

8.6 Clarification of Height

8.6.1 With respect to the appellant's statement regarding the application of a 12m height restriction, this restriction refers to exempted development only under Class 31(b) of

the Planning and Development Regulations 2001, as amended and consolidated. This does not apply where a Section 254 licence is made under the Planning and Development Act 2000 as amended and consolidated.

8.7 Access

8.7.1 With regard to access, given the location of the structure and the width of the public footpath, it does not impinge upon the public footpath or indeed the public road which is within the 50kmph speed limit.

8.8 Licence Duration

8.8.1 I note that Circular PL07/12 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 specific duration as provided for under Section 254 (4) of Planning and Development Act, 2000 (as amended). This will enable the Planning Authority to re-assess the suitability of telecommunications structure at the end of the appropriate period in light of changed circumstances pertaining at the time.

9.0 Appropriate Assessment Screening

Having regard to the nature and scale of the telecommunications structure and separation from the nearest European site, no Appropriate Assessment issues arise and it is not considered that the telecommunications structure would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

10.0 Recommendation

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

11.0 Reasons and Considerations

Having regard to the nature, scale and design of the 15m high freestanding monopole carrying telecommunications equipment with ancillary ground-mounted infrastructure, the provisions of section 254 of the Planning & Development Act, 2000 (as amended), the Dun Laoghaire Rathdown County Development Plan, 2022, and the 'Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities (1996) (as updated by Circular Letters PL 07/12 and PL11/2020, respectively); it is considered that the structure would not seriously injure the visual or residential amenities of the area or the amenities of property in the vicinity of the site. The structure would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1.	<p>The development shall be retained in accordance with the plans and particulars lodged with the application received by the planning authority on the 20/09/2019, except as may otherwise be required in order to comply with the following conditions.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>This licence shall be valid for three years from the date of this Order. The 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>The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with this application for the Licence.</p> <p>Notwithstanding the provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, shall not be altered without a prior grant of planning 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>

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.



Niall Sheehan
Planning Inspector
30th May 2024