



An
Coimisiún
Pleanála

Inspector's Report ABP-322310-25

Development	15m high smart street pole solution and associated cabinet.
Location	N24, Filbuckstown, Mooncoin, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	S.254.94
Applicant(s)	Signal Infrastructure Limited
Type of Application	Section 254 Licence
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Tony McDonnell & Others
Observer(s)	None
Date of Site Inspection	1 st July 2025

Inspector

Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject appeal site is located in the townland of Filbuckstown, Mooncoin, County Kilkenny, in the grass verge on the northern side of the N24 National Secondary Road. The site has an estimated area of c. 6 sqm and is located within the 50 kph speed limit for the village. The nearest residential property to the subject appeal site is estimated to be located c. 36 metres to the southwest on the opposite side of the public road. There is an existing Secondary School located c. 95 metres to the west.
- 1.2. A Section 254 licence for an **18 metre** high smart street pole was previously Granted by the Board on 1st February 2023 subject to 8 no. conditions, as case ref. no. ABP-311598-21 refers.

2.0 Proposed Development

- 2.1. The proposed development involves the following:
 - Proposed 15 Metre Alpha Streetpole (Monopole) Solution with AW3871 Multi-Operator Alpha Antenna and Ground Equipment.
 - The proposed free-standing monopole is a galvanised and painted pole.
 - The proposed Operators Cabinet at ground level measures 1.9 metres in length, 798 mm in width and 1.65 metres in height. The cabinet comprises smooth metal exterior (green).

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Local Authority issued an Order to Grant the Section 254 Licence for a 15 metres High Smart Streetpole Solution and associated cabinet on 24th March 2025 subject to the 8 no. conditions set out by An Bord Pleanála (ABP-311598-21).

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Local Authority Planner** considered the need for the proposed development and the planning case set out by the Applicant in terms of the existing fair to fringe existing coverage in the area, the lack of any other existing telecommunications structures in the search ring and the Applicants case that none of the other telecommunications structures in the wider area are within the search area and as such have discounted other sites for colocation.
- The Local Authority Planner notes Section 4.3 of the Guidelines in relation to Visual Impact and the last resort principle for free-standing masts within or in the immediate surrounds of towns or villages. It is acknowledged that the site is not an existing utility site. The presence of existing street lights, in close proximity to the site, are noted, as well as an existing dwelling (c. 30 metres) away and a Secondary School (c. 80 metres) away. The location of the site at a prominent high point in the village is also noted. The Local Authority Planner considers the structure will be visible from both the N24 National Road and from the wider locality. The Planner considers the principle of the mast at this location has been established under a Grant of Appeal and can assimilate into the working landscape with streetlights and other poles. The reduction in height by 3 metres (from 18 metres to 15 metres) is noted by the Planner who considers there will be a slightly less visual impact and that the proposal will assimilate into the landscape and blend in with the skyline. Regarding the location of the proposed development, proximate to dwellings, it is stated that none of the telecommunication's sites in the wider general area are located within the required search coverage range and that co-location has been discounted. In relation to road safety, the Local Authority Planner considers the relevant condition imposed under the previous case ref. no. 311598 will suitably address same. The Planner recommended that a licence be granted subject to 15 no. conditions. The final Order issued by the Local Authority on 24th March 2025 states that the renewal Licence be granted subject to 8 no. conditions set out by An Bord Pleanála.

3.2.2. Other Technical Reports

- The **Information Systems Project Leader (Networks/ Infrastructure)** raises no objection to the proposed development.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

- 3.4.1. A total of 11 no. third party observations were received by the Local Authority in respect of the proposed development. The main issues raised are covered in the Appeal.

4.0 License and Planning History

4.1. On the subject site

- **Appeal Ref. No. APB-311598-23** (Kilkenny County Council **Section 254 License Application Ref. No. S254.94**). **Installation of 18m high smart street pole solution and associated cabinet.** The Local Authority issued an Order/ Decision to REFUSE the Section 254 License for 1 no. reason relating to Visual Impact. An Bord Pleanála issued a decision to GRANT the Section 254 License **(for an 18 metre high smart streetpole solution and associated cabinet)** on 1st February 2023 subject to 8 no. conditions.

Applicant: Signal Infrastructure Limited.

4.2. Nearby site c. 1.2 km to the northwest (within an existing Eir exchange site)

- **Appeal Ref. no. ABP-308930-20 (Planning reg. ref. no. 20409).** Proposed 18 metre high free standing communications structure at Chapel Street, Mooncoin. The Local Authority issued a decision to REFUSE permission for 1 no. reason relating to Visual Impact. An Bord Pleanála issued a decision to GRANT permission on 10th May 2021 subject to 2 no. conditions.

Applicant: Eircom Limited.

5.0 Policy Context

5.1. National Planning Framework – Project Ireland 2040

- 5.1.1. Objective 24 – *‘Support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who live and work in rural areas.’*

5.2. Development Plan

- ***Kilkenny City and County Development Plan, 2021 to 2027***

- 5.2.1. Chapter 10 relates to Infrastructure and Environment.

- 5.2.2. Section 10.4 relates to Telecommunications and states:

‘The Council recognises the importance of advanced communications infrastructure for an information-based society, and as a key support for business, education and research. The Council will support and facilitate the provision of advanced communication networks and services to the extent required to contribute to national, regional and local competitiveness and attract inward investment. The Council will also encourage the further co-ordinated and focused development and extension of telecommunications infrastructure including broadband connectivity in the county, as a means of improving economic competitiveness.’

- 5.2.3. Section 10.4.1.2 relates to National Broadband Plan and includes the following statement:

‘..Some of County Kilkenny’s towns suffer from broadband deficiencies, which are detrimental to their economic growth. The Council will work towards remedying this, through facilitating the implementation of the National Broadband Plan.

The Council will facilitate the delivery of the National Broadband Plan in accordance with National and Regional policy to:

- *Promote the attractiveness of smaller settlements and rural areas generally for economic development, both indigenous and FDI;*

- *Facilitate more flexible working arrangements such as working from home;*
- *Reduce social isolation.'*

5.2.4. Section 10.4.1.4 relates to Telecommunications Antennae and states the following:

'The Council recognises the importance of a high-quality telecommunications service and will seek to achieve a balance between facilitating the provision of telecommunications services in the interests of social and economic progress and sustaining residential amenities and environmental quality.'

5.2.5. The following Objectives are provided in Section 10.4.1.4 (Telecommunications Antennae):

- **Objective 101:** *To support and facilitate the delivery of high capacity Information Communications Technology Infrastructure, broadband connectivity and digital broadcasting, throughout the County, in order to ensure economic competitiveness for the enterprise and commercial sectors and in enabling more flexible work practices e.g. remote working subject to other relevant policies and objectives of the Plan.*
- **Objective 102:** *To set up and maintain a register of approved telecommunications structures which will provide a useful input to the assessment of future telecommunications developments and would also be useful from the point of view of maximising the potential for future mast sharing and co-location.*

5.2.6. The following Broadband Development Management Requirements are provided

- *All new developments and all refurbishments and urban renewal projects shall, at planning and design stage, show how they will provide for the installation sufficient of carrier neutral ducting for fibre-based data services and incorporate unobtrusive carrier neutral antennae where feasible to facilitate future co- location of services and accommodate multifunctional technologies in the rollout of high-speed broadband and the internet of everything;*
- *All new significant public infrastructure works such as roads, water and sewerage shall provide carrier neutral ducting where feasible.*

- *Ensure the provision for development in connection with telecommunications is made in ways which will maximise the use of existing masts and sites so as to limit the impact of development.*

5.2.7. The following Telecommunications Antennae Development Management Requirements are provided:

- *When considering proposals for telecommunications masts, antennae and ancillary equipment, it is the policy of the Council to have regard to the following:*
 - a) *the visual impact of the proposed equipment and access infrastructure on the natural or built environment, particularly in areas of heritage value (See Chapter 9 Heritage);*
 - b) *the potential for co-location of equipment on existing masts; and*
 - c) *Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities and Circular Letter PL 07/12.*
- *The Council will discourage proposals for telecommunications masts, antennae and ancillary equipment in the following locations, save in exceptional circumstances where it can be established that there would be no negative impact on the surrounding area and that no other location can be identified which would provide adequate telecommunication cover:*
 - i. *Highly scenic areas or areas specified as such in the landscape character assessment, such as Mount Brandon and the River Valleys or the areas identified in Section 9.3.1.1 Archaeological Landscapes; in such cases the developer shall demonstrate an overriding technical need for the equipment which cannot be met by sharing of existing authorised equipment in the areas and the equipment is of a scale and is sited, deigned and landscaped in a manner which minimises adverse visual impacts.*
 - ii. *In close proximity to schools, churches, crèches, community buildings, other public and amenity/conservation areas; and,*
 - iii. *In close proximity to residential areas.*

- *In the assessment of individual proposals, the Council will also take the impact on rights of way and walking routes into account. To avoid proliferation of structures, which could be injurious to visual amenities, it is the Council's preferred approach that all support structures will meet the co-location clustering policy of the current guidelines for antennae. The Council will require documentary evidence as to the non-availability of this option in proposals for new structures. The shared use of existing structures will be required where the numbers of masts located in any single area is considered to have an excessive concentration.*
- *Proposals within the county for telecommunications antennae and support structures must show:*
 - a) *the alternative sites considered and why the alternatives were unsuitable,*
 - b) *the number of existing masts within the County,*
 - c) *the long-term plans of the developer in the County and the potential for further masts,*
 - d) *and the plans of other promoters and any prior consultations which the developer may have had with other mast owners.*
 - e) *all technology shall comply with the strictest environmental quality requirements, including the latest International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines and mitigate adequately against the potential to impact negatively on human health and wellbeing.*

5.3. Guidelines/ Circulars

5.3.1. DoHELG Circular Letter PL 11/2020 (Telecommunications Services – Planning Exemptions and Section 254 Licences)

This circular relates to planning exemptions applicable to telecommunications works undertaken by statutory undertakers authorised to provide telecommunications services.

The Circular advises that:

- Section 254 of the Act outlines the provisions in relation to the licencing of appliances and cables etc on public roads. Where development of a type specified in Section 254(1) of the Act is proposed to be carried out on a public road, approval for the works is required from a Planning Authority by means of the obtaining of a Section 254 licence.
- A Section 254 Licence is required for overground electronic communication infrastructure and its associated works, and that such works are exempt from planning permission.
- The exemptions for telecommunications infrastructure along public roads do not apply:
 - a) where the proposed development is in sensitive areas where there is a requirement for Appropriate Assessment.
 - b) where the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users.
- Section 254(5) of the Act outlines the criteria to which the Planning Authority shall have regard in assessing such 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.

5.3.2. Guidance on the Potential Location of Overground Telecommunications Infrastructure on Public Roads, (Dept. of Communications, Energy and Natural Resources, 2015)

This report provides advice to telecommunications operators as to how telecommunications infrastructure could be accommodated along all road types.

Table A - Stand-alone poles are the preferred option in urban areas.

5.3.3. **DoECLG Circular Letter PL07/2012 (Telecommunications Antennae and Support Structures Guidelines)**

This Circular was issued to Planning Authorities in 2012 and updated some of the sections of the above Guidelines including ceasing the practice of limiting the life of the permission by attaching a planning condition. It also reiterates the advice in the 1996 Guidelines that planning authorities should not determine planning applications on health grounds and states that, *'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'*.

It advises Planning Authorities to:

- Cease attaching time limiting conditions or issuing temporary durations to telecommunications masts, except in exceptional circumstances.
- Avoid including minimum separation distances between masts or schools and houses in Development Plans.
- Omit conditions on planning permissions requiring security in the form of a bond/cash deposit.
- Not include monitoring arrangements on health and safety or to determine planning applications on health grounds.

Include waivers on future development contribution schemes for the provision of broadband infrastructure.

5.3.4. **Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996**

The 'Guidelines for Planning Authorities on Telecommunications Antennae and Support Structures' (1996) set out government policy for the assessment of proposed new telecommunications structures ('the 1996 Guidelines'). 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. This is an essential feature of all modern telecommunications networks. In many

suburban situations, because of the low-rise nature of buildings and structures, a supporting mast or tower is needed.

Section 1.2 relates to National Policy Issues wherein it is stated that *'fragile landscapes have to be treated sensitively, scenic views preserved, archaeological/geological sites and monuments and buildings of historical and architectural interest protected and sacred areas respected.'*

Section 4.3 of the Guidelines refers to visual impact and considers that this is one of the more important considerations which have to be taken into account in arriving at a decision on a particular application. In most cases, the Applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters, etc. Visual impact will, by definition, vary with the general context of the proposed development.

The Guidelines state that the approach will vary depending on whether a proposed development is in:

- a rural/agricultural area;
- an upland/hilly, mountainous area;
- a smaller settlement/village;
- an industrial area/industrially zoned land; or
- a suburban area of a larger town or city.

The Guidelines states that *'Whatever the general visual context, great care will have to be taken when dealing with fragile or sensitive landscapes, with other areas designated or scheduled under planning and other legislation, for example, Special Amenity Areas, Special Protection Areas, the proposed Natural Heritage Areas and Special Areas of Conservation and National Parks. Proximity to listed buildings, archaeological sites and other monuments should be avoided.'*

The Guidelines state that some masts will remain quite noticeable despite best precautions. It is further stated that *'local factors which have to be taken into account in determining the extent to which an object is noticeable or intrusive intermediate objects (buildings or trees), topography, the scale of the object in the wider*

landscape, the multiplicity of other objects in the wider panorama, the position of the object with respect to the skyline, weather and lighting conditions, etc.'

In the vicinity of larger towns and in City suburbs the Guidance recommends that operators should endeavour to locate in industrial estates or in industrially zoned land. The Guidance also recommends that some commercial and retail areas should be explored whether as rooftop locations or by way of locating 'disguised' masts. ESB substations are also identified as potentially suitable locations for antennae support structures. The use of tall buildings or other structures in urban and suburban areas are stated to be always preferable to the construction of an independent antennae support structure. Only as a last resort and if the suggested alternatives are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. If such locations should become necessary, sites already developed for utilities should be considered, and masts and antennae should be designed and adapted for the specific location. The support structure 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.

5.4. Natural Heritage Designations

- 5.4.1. The site is not located within or adjacent to a Natura 2000 site. The nearest Natura 2000 sites is as follows:
- Lower River Suir SAC (Site Code 002137) located c. 2.2 km to the Southwest.

5.5. EIA Screening

- 5.5.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

6.0 The Appeal

6.1. Grounds of Appeal

- Proximity to Residential and Community Amenities:
 - Proposal is close to residential areas and local schools. The electromagnetic emissions and the overall impact on community health raise serious concerns. It is unclear in the decision as to how these concerns will be mitigated for.
- Visual Amenity and Rural Character:
 - The proposed 15 metre high structure and associated lighting will serve to impact on the scenic quality of the area along the N24 National Secondary Route. This impact is in contradiction of objectives set out in the Development Plan in relation to the protection of local visual amenity.
- Road Safety and Traffic Hazards:
 - Potential for reduction in visibility and the distraction of drivers which may cause a traffic hazard. Proposal conflicts with TII guidance in relation to development near national roads.
- Environmental, Ecological and Biodiversity Impacts/ Government Policy
 - Impact of Electromagnetic Radiation from the proposed installation on the Honeybee and Local Biodiversity. Honeybee apiary nearby.
 - Granting permission for the proposed development this will result in a contradiction with state led initiatives and scientific consensus in terms of biodiversity impact.
- Concerns regarding Decision-Making Process
 - The Applicant is concerned as to the historic decision-making process of An Bord Pleanála, including in relation to telecommunications mast applications. The Board is requested to review whether due process was followed in this case and whether the decision was made with the necessary level of scrutiny required under planning legislation.

- Use of Public Land
 - As the proposed mast is being developed on what appears to be public land, the Local Authority is acting as both licensor and landowner. This undermines the transparency of the licensing process and represents a potential conflict of interest. It is unclear whether a formal public consultation has taken place in relation to the use of public land. The use of public land should benefit the community. The decision lacks transparency.
- Cumulative Impact and Precedent
 - The proposed development may set a precedent for similar proposals in the area. No cumulative impact is provided or meaningful community engagement sought.
- Failure to Consider Alternatives
 - The Applicant has not demonstrated that alternative, less intrusive locations were considered. Lower impact technologies or shared infrastructure offer similar benefits without the same degree of environmental and visual intrusion.

6.2. Applicant Response

- None

6.3. Planning Authority Response

- None

6.4. Observations

- None

6.5. Further Responses

- None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal and the reports of the planning authority and having inspected the site, and having regard to relevant local/ regional and national policies and guidance, I consider the main issues in this appeal are as follows:

- License History/ Background
- Design, Siting and Location/ Visual Impact
- Road and Traffic Safety
- Cumulative Impact and Alternatives
- Environmental, Ecological and Biodiversity Impacts/ Government Policy
- Other Matters
 - *Decision Making Process*
 - *Public Land*
 - *Electromagnetic Radiation*

7.2. License History/ Background

7.2.1. The Commission will note the previous Section 254 Licence History associated with the subject site, as Kilkenny County Council Section 254 Licence Application Ref. No. S254.94 (Appeal Ref. No. ABP-311598-23) refer which was for the installation of an **18 m high smart pole solution and associated cabinet**. A decision to REFUSE the Section 254 License for 1 no. reason relating to Visual Impact was issued by the Local Authority on 10th August 2021. An Bord Pleanála issued a decision to GRANT the Section 254 License on 1st February 2023 subject to 8 no. conditions.

7.2.2. It should be noted that some of the documentation attached to Appeal Ref. No. 311598-23 refers to a 15 metre high smart street pole. I note however that the submitted application form, plans and drawings and the applicant planning report attached to Appeal Ref. no. 311598-23 all refer to an 18 metre high smart street pole. I also note the previous Inspectors Report and Board Order both refer to an 18 metre high smart street pole. I am satisfied therefore that the previously approved

Licence, ref. No. S254.94 (Appeal Ref. No. ABP-311598-23) was for an **18 metre high smart street pole solution and associated cabinet**.

- 7.2.3. None of the 8 no. conditions attached to Appeal Ref. no. ABP-311598-23 impose a specific timeframe for the approved Section 254 licence.
- 7.2.4. I note as per the email attached to the appeal file from the Local Authority to the main Appellant in relation to S.254.94 and dated 13th December 2024 it is stated that *'the licence expires February 2025.'* A letter attached to the file from the Local Authority to the Applicant dated 10th February 2025 refers to their renewal application for license ref. no. S.254.94.
- 7.2.5. The Local Authority issued the current Licence by Order dated 24th March 2025. The License refers to a **15 metre High Smart Street Pole Solution**. It also states *'this Licence is granted subject to the 8 No. conditions ABP-311598-21.'* I note the application form, plans and drawings submitted with the current Section 254 Licence Application all refer to an **18 metre High Smart Street Pole Solution**. Notwithstanding the fact that the License issued by the Local Authority refers to a 15 metre High Street Pole, it is my opinion that the proposal before the Commission under the subject case is for an **18 metre High Smart Street Pole Solution**, the principle for which has already been established at this location under the previous Section 254 Licence Application and Appeal ref. no. S254.94 (Appeal Ref. No. ABP-311598-23), subject to 8 no. conditions. I therefore intend to assess the proposed development as such.

7.3. Design, Siting and Location/ Visual Impact

- 7.3.1. The proposed development is for the installation of an 18 metre High Smart Street Pole Solution. The street pole (monopole) measures 0.36 metre (360 mm) in width. At the top of the pole, it is proposed to install 1 no. 3.2 metre antennae. At ground level it is proposed to provide a standard cabinet which is shown to measure 1.9 metres in length by 0.8 metres in width by 1.6 metres in height and is proposed to be of dark green colour.
- 7.3.2. The nearest residential property to the subject appeal site is estimated to be located c. 36 metres to the southwest on the opposite side of the public road. The site of Colaiste Cois Siuire Mhuire Secondary School is located c. 95 metres to the west. Owing to the character of the surrounding area and the existing surrounding uses, I

do not consider the subject site to be located in a residential area, nor indeed is the site beside or adjacent to a school.

- 7.3.3. Mooncoin is one of a total of 22 no. Rural Towns and Villages listed in the County Settlement Hierarchy as set out in Table 4.3 of the Development Plan. As per recommendations set out in the Telecommunications Guidelines, 1996, see Section 4.3, it is stated that *‘only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation.’* The subject appeal site is located within the defined settlement boundary for Mooncoin as shown in Figure 4.19 (Settlement Boundary for Mooncoin) of the Development Plan. I therefore consider the subject appeal site to be within an urban area. I also note the site is proposed to be located within the 50 kph speed limit.
- 7.3.4. I note the Applicant examined 3 no. other grass verge sites within the village (ALT 1, ALT 2 & ALT 3) and that these said sites have been discounted on the basis of their proximity to the Secondary School (ALT 1 & ALT 2) and being outside the search ring (ALT 3). I further note the Applicant examined a total of 4 no. existing alternative telecoms sites (A to D) located between 4.99 km and 5.69 km distant from the site and that these have been discounted for various reasons but primarily for being outside the required search ring.
- 7.3.5. The Local Authority Planner refers to a nearby Appeal decision to Grant permission for an 18 metre-free standing communications structure located within an existing utilities site at Chapel Street, Mooncoin, as Appeal Ref. no. 308930.20 (Local Authority Planning Reg. Ref. No. 20409) refers. I note this Appeal decision was issued on 10th May 2021 subject to 2 no. conditions. I estimate the existing utility site at Chapel Street (Eir exchange) is located c. 1.12 km (1,120 metres) to the northwest of the subject appeal site.
- 7.3.6. I note the search ring for the subject appeal extends to a diameter of 800 metres as shown in figure 7 of the supporting Report submitted with Appeal Ref. no. 311598.21, that the centre of this said search ring is located c. 420 metres to the east of the subject appeal site and that the search ring is focused on the eastern

approach to the centre of the village. I note the Applicant discounted a separate potential site (ALT 3) for being outside the search ring and that the existing utility site at Chapel Street is further outside the search ring, estimated to be c. 435 metres to the northwest from the edge of the Applicants search ring. I note, as per the available site viewer mapping on the ComReg website, that there is no existing mast in operation at the existing utility site at Chapel Street, nor indeed in the general locality.

- 7.3.7. By comparison, the search area presented under appeal ref. no. 308930.20 is defined as the urban area of Mooncoin (see figure 2 of the planning report submitted for planning reg. ref. no. 20409) and includes the area shown within the search ring presented under the subject appeal/ application. In other words, the existing utility site to which an extant permission for an 18 metre high mast pertains and which is located within 1.12 km (1,200 metres) from the subject appeal site and within the existing village has not been considered as part of the Applicants justifications for the selection of the subject appeal site. As per guidance set out in Section 4.3 of the Telecommunications Guidelines, 1996, there is an onus upon the Applicant to consider sites already developed for utilities. In my opinion, the guidance is clear that *'only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages'* and that should such location become necessary *'sites already developed for utilities should be considered..'* In my opinion therefore, the Applicants' assessment of alternative sites is not complete as it does not consider or indeed discount the existing nearby utility site upon which permission exists for an 18 metre high telecommunications structure.
- 7.3.8. I note the Applicant provided a total of 3 no. Viewpoints as part of the application documentation and in relation to the issue of Visual Impact concludes that *'the proposal, adjacent to an existing utility structure, will be assimilated into the skyline at this location and within the backdrop of the receiving environment and is entirely in accordance with the proposed planning and sustainable development of the area.'*
- 7.3.9. I note the subject appeal site is not located within an Architectural Conservation Area (ACA) and that there are no Protected Structures or buildings or features listed on the National Inventory of Architectural Heritage (NIAH) located within any close proximity to the site. Similarly, there are no nearby recorded monuments or protected

views of relevance to the site. The subject site is therefore, in my opinion, not particularly sensitive or unique such that it warrants special additional protection or careful additional consideration in terms of potential visual impacts. I am satisfied that the proposed monopole street pole is of a scale and design which would not be out of character for the area, would not be visually obtrusive and would not represent an incongruous feature in a setting such as this. In my opinion therefore, the proposed development, as presented, is acceptable in terms of its Design and Visual Impact.

7.3.10. Notwithstanding, and as noted further above, the Applicant has not, in my opinion, suitably justified the choice of the subject appeal site over the existing utility site in the village.

7.4. Road and Traffic Safety

7.4.1. I note the Appellants concerns in relation to Road Safety and Traffic Hazards. The installation is proposed to be located in the grass verge to the side of the public road at the rear of the public footpath which is c. 2.0 metres in width. The proposal will not, in my opinion, serve to interrupt the free flow of traffic along the public road nor indeed interfere with pedestrian movements along the public footpath.

7.4.2. I note the site is located along the N24 National Secondary Road and is within the 50 kph speed limit zone where lower traffic speeds apply. There is an existing road junction to the east, the centre of which I estimate is c. 27 metres to the east of the eastern site boundary of the subject appeal site. Having examined the site layout plan and having regard to standard sight distances set out in table 4.2 of the Design Manual for Urban Roads and Streets (DMURS), I am satisfied that ample sightlines in excess of 65 metres will be available from a point at the centre of the junction, 2.4 metres back from the near edge of the public road looking west towards the village. I note the Appellant is concerned that the proposed installation will serve to startle passing traffic but has not presented any evidence in this regard. In the absence of any definitive evidence to the contrary, I do not accept this to be case. I am therefore satisfied that the proposed development, as presented, is acceptable in terms of traffic safety. Notwithstanding, and as noted further above, the Applicant has not, in my opinion, suitably justified the choice of the subject appeal site over the existing utility site in the village.

7.5. Cumulative Impact and Alternatives

- 7.5.1. The Appellant considers that the approval of the proposed development may set a precedent for further telecommunications infrastructure in the area. The Appellant submits there has been no meaningful community engagement on the wider implications of infrastructure proliferation.
- 7.5.2. In my opinion, each Section 254 license application should be dealt with on its own merits. Where a License is approved, this does not necessarily mean another license will be approved elsewhere in a local area. From the developers' perspective, the preference is likely to be to seek to minimise the number of such facilities in the local area and to consolidate infrastructure to one location.
- 7.5.3. In my opinion, there is no specific onus upon the developer, to liaise with the local community in relation to future plans for the area.
- 7.5.4. I have assessed the issue of the Applicants appraisal of alternative sites further above.

7.6. Environmental, Ecological and Biodiversity Impacts/ Government Policy

- 7.7. I note the Appellants concerns in relation to the potential impact of the proposed development upon a nearby honeybee apiary which is stated to be located within 30 metres of the subject license site. The Appellant is concerned that electromagnetic radiation may serve to interfere with bees' ability to navigate, forage and return to the hive. I refer to my comments below in relation to Electromagnetic Radiation. Such matters are, in my opinion, outside the scope of this Section 254 License Application/ Appeal case.

7.8. Other Matters

- *Decision Making Process*

- 7.8.1. I note the Appellants concerns raised in relation to the decision making process of An Bord Pleanála. This assessment solely relates to the subject case, ABP-322310-25. The previous case ref. no. ABP-311598-25, has already been decided.

- *Public Land*

- 7.8.2. The proposed installation is regulated by way of a Section 254 License as opposed to planning permission. Such works are ordinarily exempt from planning permission

subject to the criteria set out in Section 254 of the Planning and Development Act, 2000, as amended. The installation is proposed to be located on the grass verge to the side of the road carriageway and, in terms of its location, is in my view, consistent with guidance provided in Circular Letter PL 11/2020 (issued by the Department of Heritage, Environment and Local Government (DoHELG)).

7.8.3. The installation is being proposed by a private company. The public verge, as part of the road carriageway, is under the control of the Local Authority. The Local Authority as licensor is, in my opinion, acting in the common good. Section 254 license applications are commonplace across the State. I do not accept there is any conflict of interest.

- *Electromagnetic Radiation*

7.8.4. I note the concerns raised in relation to electromagnetic radiation. I note Circular Letter PL07/2012 issued by the Department of Environment, Community and Local Government (DoECLG). Section 2.6 of the circular relates to Health and Safety Aspects where it is stated, inter alia, that:

‘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.’

7.8.5. The issue of compliance with Health and Safety matters is evaluated under a separate legal code and thus need not concern the Commission for the purposes of this appeal.

8.0 AA Screening

8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located not located within or adjacent to any European Site. The closest European Site, part of the Natura 2000 Network, is the Lower River Suir SAC (Site Code 002137) located c. 2.2 km to the southwest of the proposed development site. The proposed

development comprises the installation of a 15 metre high smart streetpole solution and associated cabinet.

- 8.2. No nature conservation concerns pertaining to European Site(s) were raised in the planning appeal.
- 8.3. Having considered the nature, scale and location of the proposed development, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site.
- 8.4. The reason for this conclusion is as follows:
 - The small-scale nature of the development.
 - The location of the development in a serviced urban area, distance from European Sites, the urban nature of intervening habitats and the absence of ecological pathways to any European Site.
- 8.5. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.6. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Water Framework Directive

- 9.1.1. The subject appeal site is located at N24, Filbuckstown, Mooncoin, Co. Kilkenny, approximately 473 metres to the southwest of Ballytarsney_010. The site is also overlying Clonmel Groundwater Body (IE_SE_G_040).
- 9.1.2. The proposed development comprises:
 - Proposed 15 Metre Alpha Streetpole (Monopole) Solution with AW3871 Multi-Operator Alpha Antenna and Ground Equipment.
 - The proposed free-standing monopole is a galvanised and painted pole.
 - The proposed Operators Cabinet at ground level measures 1.9 metres in length, 798 mm in width and 1.65 metres in height. The cabinet comprises smooth metal exterior (green).

- 9.1.3. No water deterioration concerns were raised in the planning appeal.
- 9.1.4. I have assessed the proposed residential development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.
- 9.1.5. The reason for this conclusion is as follows:
- The relatively small-scale nature of the proposed development.
 - The location of the subject appeal site, distance to the nearest water body and lack of direct hydrological connections.
- 9.1.6. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

10.0 Recommendation

- 10.1.1. I recommend a licence be REFUSED for the following reason.

11.0 Reasons and Considerations

1. Having regard to the government's guidelines on Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996) which state that, inter alia, only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages and that if such location should become necessary, sites already developed for utilities should be considered, insufficient technical justification and evidence has been provided in respect of alternative sites, to support the location of the proposed development. It is the stated policy of the Kilkenny County

Development Plan, 2022 to 2028 to have regard to the Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities when considering proposals for telecommunications masts, antennae and ancillary equipment, and in the absence of a clearly demonstrated assessment of alternative sites, including existing utility sites in the vicinity, it is considered that the proposed development would be contrary to government guidelines, to the policy of Kilkenny County Development Plan, 2022 to 2028 and would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Frank O'Donnell
Planning Inspector

26th September 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-322310-25
Proposed Development Summary	15m high smart streetpole solution and associated cabinet.
Development Address	N24, Filbuckstown, Mooncoin, Co. Kilkenny
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed	

<p>type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	

<p>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____

