



To: Directors of Planning

CC: Chief Executives

Senior Planners

An Bord Pleanála

Office of the Planning Regulator

Directors of Regional Assemblies

Circular Letter PL 11/2020

17 December 2020

Re: Telecommunications Services – Planning Exemptions and Section 254 Licences

The purpose of this Circular Letter is to provide clarification in relation to the planning exemptions applicable to telecommunications works undertaken by statutory undertakers authorised to provide telecommunications services, particularly in the context of the roll-out of overground cables along National, regional and local roads as part of the National Broadband Plan which is currently ongoing throughout many parts of the country.

Exemptions from planning permission are provided for under Section 4 of the Planning and Development Act 2000, as amended (the Act) and Schedule 2 of the Planning and Development Regulations 2001, as amended (the Regulations). Such exemptions are provided for when they are considered to be consistent with proper planning and sustainable development.

Class 31 of Schedule 2 of the Regulations sets out the detailed range of planning exemptions that can be availed of by statutory undertakers in the provision of telecommunications services. The Class 31 exemptions are subject to conditions set out in the Regulations. For ease of reference, a full copy of the Class 31 exemptions is attached at Appendix 1.

Section 254 of the Act outlines the provisions in relation to the licensing 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. However, while a section 254 licence is required for such works, section 254(7) further provides that development carried out in accordance with a licence issued under section 254 shall be exempted development for the purposes of the Act i.e. it is therefore exempted from planning permission.

Telecommunications infrastructure related works covered under the section 254 provisions include -

- “a cable, wire or pipeline” (section 254(1)(e)), and
- “overground electronic communications infrastructure and any associated physical infrastructure” (section 254(1)(ee)).

It should be noted in this context that under Section 254(2), a section 254 licence is not required by a statutory undertaker for the erection, construction, placing or maintenance of a cable, wire or pipeline under a public road. Such works involving the excavation of a public road are dealt with under separate legislation, where the consent of the roads authority is required for this purpose under section 13(10) of the Roads Act 1993.

Furthermore, section 254(5A) of the Act provides that where an application for a section 254 licence to erect, construct, or maintain overground electronic communications infrastructure and any associated physical infrastructure is submitted, and a planning authority fails to make a decision within a period of 4 months commencing on the date of receipt of an application, a decision of the planning authority to grant the licence shall be deemed to have been made on the day following the expiration of that period of 4 months.

In the situation where a deemed decision for a Section 254 licence arises, section 254(5A) further provides that the network operator shall, in advance of the commencement of the works to erect, place or maintain electronic communications infrastructure or any associated physical infrastructure, inform -

- (i) the planning authority concerned,
- (ii) where the planned work is on a national road, the National Roads Authority,
- (iii) where the work is on any regional or local road, the relevant Road Authority in whose functional area the network operator proposes to carry out the work.



However, it should be particularly noted in this regard that the planning exemptions for telecommunications infrastructure along public roads do not apply in the following scenarios –

- (a) where the proposed development is located in sensitive areas where there is a requirement for Appropriate Assessment (Special Protection Areas, Special Areas of Conservation, Natura sites etc) – section 4(4) of the Act refers, and
- (b) where the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users – article 9(1)(iii) of the Regulations refers.

In such scenarios, the works are subject to the planning process and are therefore a matter for the relevant planning authority and/or An Bord Pleanála as appropriate.

With regard to Appropriate Assessment (AA), guidance for same is available from the NPWS at <https://www.npws.ie/protected-sites/guidance-appropriate-assessment-planning-authorities> which includes guidance on AA screening, as outlined in the “Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities” published by this Department in 2009 (updated in February 2010), as well as guidance published by the European Commission last updated in November 2018, which can be viewed at the following links -

- http://www.npws.ie/sites/default/files/publications/pdf/NPWS_2009_AA_Guidance.pdf
- https://ec.europa.eu/environment/nature/natura2000/management/guidance_en.htm
- https://ec.europa.eu/environment/nature/natura2000/management/docs/art_6/Provisions_Art_6_nov_2018_en.pdf

Any queries in relation to this Circular Letter can be emailed to planning@housing.gov.ie.

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Planning Policy and Legislation