

# DÁIL ÉIREANN

## AN COMHCHOISTE UM THITHÍOCHT, RIALTAS ÁITIÚIL AGUS OIDHREACHT

### JOINT COMMITTEE ON HOUSING, LOCAL GOVERNMENT AND HERITAGE

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*Dé Céadaoin, 14 Iúil 2021*

*Wednesday, 14 July 2021*

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Tháinig an Comhchoiste le chéile ag 3.30 p.m.

The Joint Committee met at 3.30 p.m.

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Comhaltaí a bhí i láthair / Members present:

Teachtaí Dála / Deputies	Seanadóirí / Senators
Joe Flaherty,	Victor Boyhan,
Thomas Gould,	Lisa Chambers,+
Emer Higgins,	John Cummins,
Paul McAuliffe,	Aisling Dolan,+
Cian O'Callaghan,	Mary Fitzpatrick,
Eoin Ó Broin,	Barry Ward.+
Ruairí Ó Murchú.+	

+ In éagmais le haghaidh cuid den choiste / In the absence for part of the meeting of Deputy Thomas Gould and Senators Mary Fitzpatrick, Mary Seery Kearney and John Cummins.

Teachta / Deputy Steven Matthews sa Chathaoir / in the Chair.

## **Planning and Development Act 2000 (Section 254 – Overground Telecommunication Cables) Regulations 2021: Motion**

**Chairman:** Good afternoon, I welcome the Minister of State with responsibility for planning and local government, Deputy Peter Burke, to consider the Planning and Development Act 2000 (Section 254 – Overground Telecommunication Cables) Regulations 2021. These have been referred to the committee by order of the Seanad, dated 12 July, and by order of the Dáil, dated 14 July. The briefing from the Department of Housing, Local Government and Heritage has been circulated to members. The format of the meeting will be that I will first ask the Minister of State for his opening statement and then members will be invited to address their questions to the Minister of State.

I will read the note on privilege. Members attending remotely from within Leinster House are protected by absolute privilege in respect of the presentations they make to the committee. This means that they have an absolute defence against any defamation action for anything they say during the meeting. However, they are expected not to abuse this privilege. It is my duty as Chair to ensure that this privilege is not abused. Therefore, if statements are potentially defamatory in relation to an identifiable person or entity, they will be directed to discontinue their remarks. It is imperative members comply with this direction. I remind members of the constitutional requirement that they must be physically present in the confines of the place where Parliament has chosen to sit, namely, Leinster House or the Convention Centre Dublin, in order to participate in public meetings. Members are reminded of the long-standing parliamentary practice to the effect that they should not comment on, criticise or make charges against a person outside the Houses or an official either by name or in such a way as to make him or her identifiable.

The opening statement submitted to the committee will be published on the committee website after this meeting.

**Deputy Paul McAuliffe:** Senator Mary Fitzpatrick sends her apologies. Senator Lisa Chambers is substituting for her.

**Chairman:** Thank you Deputy McAuliffe for the reminder. Senator Barry Ward is substituting for Senator Cummins, Senator Lisa Chambers is substituting for Senator Fitzpatrick and Deputy Ó Murchú is substituting for Deputy Gould. I welcome them to the committee this afternoon.

I invite the Minister of State, Deputy Burke, to make his opening statement.

**Deputy Peter Burke:** I thank the Cathaoirleach and members for affording me this opportunity to present to the committee today on this set of proposed planning regulations. The regulations consist of the Planning and Development Act 2000 (Section 254 – Overground Telecommunication Cables) Regulations 2021. Section 254 licences are required for the laying of overground electronic communications infrastructure and any associated physical infrastructure along public roads in accordance with section 254(1) of the Act. These regulations specifically address the section 254 licence application fee payable to local authorities for overground cable which is part of the electronic communications network. The planning regulations I am presenting today are a practical measure within my remit. The Covid-19 pandemic has absolutely highlighted the need to accelerate the roll-out of key communications infrastructure and certainly the costs involved in facilitating this roll-out are key in that regard.

My Department has worked with officials in the Department of the Environment, Climate and Communications and the local government managers association representing the local authorities sector to agree the proposed fee with a view to providing necessary certainty to the communications sector on the cost of rolling out overground telecommunications cables on a national and a local level. The draft regulations I have laid before the Oireachtas are entitled the Planning and Development Act 2000 (Section 254 – Overground Telecommunication Cables) Regulations 2021. These draft regulations propose to prescribe the section 254 licence fee for overground cable which is part of an electronic telecommunications network. The draft regulations amend Part 1 of Schedule 12 of the principal planning regulations to exclude an overground cable for the carrying of telecommunications signals from paragraph (e), regarding cables, wires and pipelines. This will mean that the present licence fee of €25 per 100 m payable in respect of the laying of cables, wires and pipelines as specified in Part 1 of Schedule 12, will not be payable in respect of laying of broadband telecommunication cables. The regulations further amend Part 2 of Schedule 12 to the principal planning regulations by inserting a new paragraph (f) which prescribes a new fixed fee of €125 per section 254 licence application for an overground cable for the carrying of telecommunication signals. The exclusion of the cable-related text from Part 1 of Schedule 12 ensures that double-charging for section 254 licences will not take place.

While these new flat-fee arrangements will represent a reduction in revenue for local authorities in processing and determining section 254 licences as against the current fee arrangements for the laying of cable, the local government sector is supportive of these new fee arrangements, given the social and economic benefits to citizens and local communities attached to the roll-out broadband programme throughout Ireland. The level of fee is being kept reasonably low to promote and support the roll-out of high-speed rural broadband. This is a policy commitment in the programme for Government. In addition, it recognises the work for a quick roll-out of broadband to meet increased home usage for both work and leisure, arising from the impact of the ongoing Covid-19 pandemic, and to facilitate the provision of high-speed broadband to rural areas into the future.

One of the drivers for this draft regulation is the rolling out of the national broadband plan. The continued roll-out of the national broadband plan is expected to require the laying of an additional 140,000 km of cable. This one project will lead to approximately 900 section 254 licence applications to local authorities for network build, and a further 900 licence applications for customer connections over the course of the project. This represents the processing and determining of a minimum of 1,800 section 254 licences by local authorities in the roll-out of this one project. As I outlined, the fee proposed provides certainty on costs for both the roll-out of the broadband network and for individual connections.

I commend this draft set of regulations to the committee. Having regard to the impact of the Covid-19 pandemic, the regulations will support the Minister for the Environment, Climate and Communications in the further roll-out of much needed communications infrastructure, which will support both individuals and businesses accessing high-speed broadband in the future.

Further to today's presentation to the committee, these draft regulations are subsequently approved by a positive resolution of both Houses of the Oireachtas, as required under section 262(4) of the Planning and Development Act 2000. They will come into force as soon as they are signed by me. If approved by the Oireachtas, it is my intention to sign the regulations into law at the earliest opportunity. I thank the committee for the speedy consideration of these regulations and for its time this afternoon.

**Deputy Joe Flaherty:** I thank my constituency colleague, the Minister of State, Deputy Burke, for attending and for briefing us on the regulations. Having spoken in the Dáil last night at length about the potential threat of loss of revenue to Longford County Council, both in terms of the local property tax, LPT, and from rates following the closure of the power station in Lanesborough, I am not one to agree with a reduction in revenue for a local authority. However, it is imperative we press ahead with the regulations. The national broadband plan is probably one of the most important projects for rural Ireland and that came to the fore throughout Covid.

The regulations proposed by the Minister of State are very practical. It is fair to say we have seen a ropey start to the national broadband plan. As a Government we need to do everything possible to remove any potential impediments that can delay the roll-out of the plan. Rural Ireland and many large provincial towns and parts of cities are very dependent on the rapid roll-out of broadband. We have pressed for this since coming to Government to ensure a rapid escalation in the roll-out of broadband. I am concerned the plan is likely to be well short of the 115,000 connection targets for this year. That is regrettable, but measures such as those outlined by the Minister of State are a step in the right direction. We must take action where we can to ensure the plan works. I am happy to support the regulations.

**Deputy Peter Burke:** I thank Deputy Flaherty for his comments. He is correct in his concerns about the funding structure for local authorities. We are working very strongly with Longford County Council and other key local authorities that were affected by the just transition. We are trying to ensure there is a solid income stream to replace the key revenues they have lost. The Department is dealing with Longford County Council and other counties in that regard. In the previous budgetary cycle, we were not found wanting in supporting them with key funding streams. We need something concrete for the future and we are working to deliver that. As Deputy Flaherty correctly points out, this initiative will speed up and assist in the delivery of high-quality broadband to all citizens.

**Deputy Eoin Ó Broin:** I confirm that I am in Leinster House. I thank the Minister of State for the presentation. I have some straightforward questions. First, will he outline to the committee the origin of the proposal and the rationale behind it? Was it lobbied for by any organisation, be that local authorities or industry? In the first instance, will he give us a little bit of background to it so we understand where it is coming from?

With respect to the loss of revenue for local authorities, has there been an assessment of what the likely loss of revenue will be, either globally across all the local authorities or if there is a breakdown within local authorities? If that is not available to hand, could it be presented to the committee?

While I know the answer to the question, it is important to have it on the record. Will the Minister of State confirm there is no impact from these regulations on any planning requirement that may be required for any of the associated works, that they just relate to the fee structure, but where planning permission would be required, this does not in any way change that and the planning approval requirements would still be in place?

**Deputy Peter Burke:** I am happy to confirm there is no change to the planning requirements. All the safeguards in terms of safety and basic metrics for road-opening licences will still apply. One of the concerns that had been raised by the County and City Management Association is that there is a duplicate process here in terms of double charging. Second, the intention is to speed up the plan. While it is not guaranteed revenue that local authorities specifically have, if we go on the basic metric in terms of the 18,000 km, we could be talking

about approximately €35 million in the coming years. They will take in €225,000 from the basic licence opening fees. We are keen to ensure we support local authorities in the future and we are committed to doing that. It is incumbent on us all to try to speed up the process for the national broadband plan to ensure it gets to as many citizens as quickly as possible. We should do anything we can to support the plan. I thank the Deputy for his questions.

**Deputy Eoin Ó Broin:** I thank the Minister of State for his response to the questions and for the briefing documentation. We are more than happy to support the motion when it comes to the Dáil and Seanad today and tomorrow.

**Deputy Emer Higgins:** I note you welcomed some members substituting for others, Chairman. Senator Dolan is here as well in substitution for Senator Seery Kearney.

I thank the Minister of State for going through the details with us. It is an interesting proposal that boils down to the national broadband plan, which has the potential to transform day-to-day life for people throughout the country. The Tánaiste recently published the working from home strategy. The rural development policy for the next five years was also recently published. These two plans together can change how we do business and rebalance the work-life pressures so many families face. Connection to high-speed broadband is key to unlocking the potential of remote working, which I believe is the way forward.

Today, Apple employs more people in Ireland remotely than in offices. Right now, the majority of employees in large and multinational corporations are working from home. With the new right to be able to seek to work from home, it is vital we are able to provide people with the infrastructure to do so.

As the Minister of State indicated, the new funding structure will provide certainty for all stakeholders. Certainty is vital to any kind of business. It is significant the local authorities are in favour of that change. They are the ones at the forefront of these key projects. I congratulate the Minister of State and all in his team on their work on this important project.

**Deputy Peter Burke:** Deputy Higgins raises very valuable points in terms of remote working. The blended approach we are trying to achieve will give citizens a better quality of life in future. We must take opportunities out of every crisis, try to put them to best use, and underwrite citizens going forward to give them a better quality of life and more time with their families in a more blended approach in the future. The need for high-speed broadband has been highlighted in this crisis. To be fair, the Oireachtas is pretty united on that currently, and we will do anything we can to assist the delivery. The key metrics still remain in terms of road safety, protected structures and environmental issues. All of those must still stand on their merit in terms of each application.

**Chairman:** I apologise to Senator Dolan and welcome her to this afternoon's meeting in substitution for Senator Seery Kearney.

The next slot is the Green Party's so I will take that. I would like a few clarifications. The application system and the assessment of something to be placed under a section 254 licence remains the same. I understand that if the same 100 m criteria were applied to 140,000 km of cable, there would be a substantial cost. The Minister of State said it would be something like €30 million, which is not viable, so I fully understand and support the fee change. The licence would be applied for a network of cable. Would there still be the same level of assessment if the network consisted of ten, 15 or 20 poles of a spur to serve a country road? Is the same level

of assessment required by local authority planners on the issuing of the licence?

**Deputy Peter Burke:** Absolutely. It is linked back to the municipal district. All the municipal districts throughout the country have an adjudication process for issuing a section 254 licence and, as I said, we still have to go through the same adjudication process for road safety, protected structures and environmental issues. All those robust practices would still remain in place.

**Chairman:** Is there any concern that, because it will be done as part of a network now rather than an individual 100 m stretch, we could end up with more overhead wiring and cabling systems in places where it is preferable to duct underground in either new or existing ducting? Is there any concern that because of this new way of assessing it, the applicant might just go all overhead as it is easier to do it that way? Has that been looked at or is there any concern there?

**Deputy Peter Burke:** I have not heard any concerns about that but Mr. Loughlin and Mr. Neary might be able to offer an additional assurance on that issue.

**Mr. Patrick Neary:** The assessment is the same irrespective of the length that is being provided for. It should be noted that the local authorities have very positively engaged in establishing a guidance document for operators to adhere to in the application process. That was launched in recent weeks. In that document, any concerns relating to how the information is presented have been ironed out by the local authorities.

**Chairman:** If an operator were to run a kilometre of overhead cable and then reached a town, he or she might underground it because it is preferable aesthetically, and then continue 500 m down the road at the other end of that town. Would this in any way create situations where the operator or the applicant might just decide to run it all overhead because it is the one licence application?

**Deputy Peter Burke:** I-----

**Chairman:** I ask the Minister of State to take that on board and ensure good guidance is given in order that, wherever possible-----

**Deputy Peter Burke:** I hear the Cathaoirleach's point but I would just point out that the local authorities have to keep these key considerations in the development management process. They are not going to let overhead cables go all through our towns. They will be managing that process and they have the right to refuse the licence if it does not meet good practice.

**Chairman:** That is grand. In general, the fees that are charged for planning applications rarely, if ever, cover the workload that is involved for local authority planners. That is something that is going to have to be looked at and we should consider it in the future given we are talking about a reduction in fees. Am I correct in saying this will apply to everything, not just projects related to the national broadband plan? I am referring to overhead cabling.

**Deputy Peter Burke:** Yes, that is correct.

**Chairman:** I will leave it at that as that has answered my questions.

**Senator Victor Boyhan:** I welcome the Minister of State, Mr. Neary and Mr. Loughlin. I welcome these regulations. They are very positive. Previous speakers, including the Minister of State, have noted the importance of rolling out our rapid broadband infrastructure. We all know the importance of that and we do not need a lecture or lesson on it.

I have only one important issue I wish to raise with the Minister of State. It relates to protected structures. The Minister of State will know that protected structures are designated through a set of principles and processes for buildings that are of historical, archaeological, artistic, cultural, scientific, social or technical importance. They are designated as protected structures and are on the record of protected structures, RPS, of each county development plan. There is no dispute about that. In the event of activity, works or planning, they are not exempt developments. In the general context of planning, there are prescribed bodies, such as An Taisce and many others, that receive notification of every planning application for interaction or development to a protected structure or a development within an architectural conservation area. That is set down in statute and law. I have personal experience in my county of issues where the local authority has gone after people for planning enforcement in this regard.

The Department's briefing note says that, in accordance with section 57(1) of the Act, carrying out works on protected structures or a proposed protected structure shall be an exempt development only if those works do not materially affect the character of the structure. We know what the character is because they have been designated protected structures but who decides it is "only" and who arbitrates whether it is exempt? There might be a concern there. While I do not want to hold anything up, we need greater clarity on this matter. Perhaps a circular or a memorandum could be sent to the local authorities because we do not want cabling and all sorts of infrastructure related to broadband tacked on to these types of structures or buildings. Some local authorities are good on this, such as Kilkenny County Council. I do not know if the Minister of State responsible for heritage has made any additional comments on this. I had intended to write to him today. He is a colleague of Deputy Burke's and he is in his Department. We need absolute clarity and I suggest a circular be published hand-in-hand with these regulations, because we do not want a whole set of litigation and we do not want An Taisce or any other organisation saying this infrastructure is in some way debasing a protected structure.

We know the importance of it. There are church spires in Dún Laoghaire-Rathdown where the local authority took action to have the stuff removed even though it could not be seen from the road. As a matter of fact, those were ideal places to place this infrastructure because it could not be seen, but some local authorities are very hot on it and others are not. We need some sort of uniformity, clarity and guidance. I would be interested to hear what the officials have to say in that regard. I wish the witnesses well and they have my support.

**Deputy Peter Burke:** I would be very happy to include that in the circular for the regulations. The Senator is a very strong advocate of trusting local authorities and he quite rightly pointed out they will be adjudicating on the record of protected structures. We do not want any protected structure to be compromised in any shape or form. We will absolutely take the Senator's comments on board and I would be happy to include that as an expansion in the circular.

**Senator Victor Boyhan:** Thank you.

**Deputy Cian O'Callaghan:** I thank the Minister of State and his officials for coming before the committee. I am very supportive of everything that can be done to support the roll-out of broadband. I want to focus on a few of the points that have been brought up. There have been issues over the years with road-opening licences or ducting for cables that are overground where they should not be.

We have seen mistakes made by different local authorities. In terms of road opening, there is a public cost. Licences are issued but there are no proper inspections or reinstatement by utilities. The public bears the cost in terms of the damage that is done and, ultimately, the coun-

cil stepping in and fixing the damage later on. Are there any additional safeguards or measures in the regulations to ensure that there will not be a public cost in terms of the road opening licences? Have lessons been learned from past mistakes with other utilities?

The Chairman raised the issue of ducting. Is anything in particular being done to ensure that, in a few years' time when something has been done, there will be no unnecessary visual damage that will prove very difficult or costly to address?

**Deputy Peter Burke:** I thank the Deputy. Each licence is adjudicated on by the municipal district or local authority. Essentially, they have the right to put conditions in the particular site in question for each licence to safeguard the public interest and good in terms of the taxpayer. We are not changing that process, so to speak.

As I said to the Senator Boyhan, we will include additional guidance in the circular on some of the sensitive sites referred to in the briefing document. No one wants there to be any unintended consequences. We want to speed up the delivery of high-speed broadband to all of our citizens as quickly as possible.

**Deputy Cian O'Callaghan:** Is additional guidance been given in respect of road opening licences? I am aware that up until recent years mistakes have been made and that, ultimately, the public has borne the cost. This is a matter for local authorities in terms of the operation and granting of licences. At this level, can additional guidance be provided to try to reinforce those points?

**Deputy Peter Burke:** Underground is dealt with in section 53 of the Communications Regulation Act. We are dealing with overground. That is where the licences will be in question. There is no proposed change to any road opening or opening up of public roadways.

**Deputy Cian O'Callaghan:** I thank the Minister of State.

**Chairman:** We will move on to the second Fine Gael slot. I will move on to the second Sinn Féin slot.

**Senator Aisling Dolan:** Can I come in on the Fine Gael slot?

**Chairman:** Yes, go ahead.

**Senator Aisling Dolan:** I was not sure if Senator Ward was going to come in. I welcome the Minister of State. I am happy to support the regulations, particularly if they are a way to accelerate the roll-out of broadband.

I live in a rural area. More than half of the premises in County Roscommon are in the intervention area. That is absolutely incredible. It is the same in east Galway. I very much welcome any measures to accelerate the provision of broadband. There are more than 19,000 premises in Roscommon. The Minister of State mentioned section 254 and municipal districts. I have a significant concern about that. I acknowledge the work the Department has done to try to find a way to accelerate matters and streamline the administrative process. The Minister of State mentioned more than 900 licence applications alone and a further 900 applications for customer connections. Delays mean additional time that we do not have. For the past year, due to the Covid pandemic and lockdown, everything has had to be done online. Lack of broadband access reduces equality in regional areas in terms of attracting investment. We can even farm in such areas. When everything was online, there was a major impact. I want to acknowledge

what the Department is doing. The Minister of State noted that the licence fee of €25 per 100 m of cables, wires or pipelines laid will be removed. A standard fee of €195 for a licence for an overground cable will apply. A number of licences were mentioned. The Minister of State referred to 227 deployment areas and four municipal districts per deployment area. It was mentioned that there will be a mapping of where this infrastructure is going to go. As the Minister of State knows, municipal districts need to know the lines between the ESB, Irish Water and everything else. Many different groups work outside. Will local authorities have access to the mapping? Will they be able to share it with the different groups involved?

In the context of the National Broadband Ireland, NBI, plan, who will be the liaison with each municipal district? This has probably already been decided and I am sure that a person has been person. Will there be a dedicated person to streamline this process and ensure we are supporting our municipal districts as much as possible and that NBI is also supporting them?

**Deputy Peter Burke:** I thank the Senator for her questions. She quite rightly pointed out that we are covering 96% of the State. One can see in terms of a public infrastructure project the scale of what we are trying to do, and do it as quickly as possible for the benefit of everyone.

As the Senator quite rightly pointed out, there are four municipal districts, on average, in every local authority area. There is huge scale. That also provides extra assurance because each municipal district knows the geographical area under its jurisdiction well. That provides assurance, as referenced by other members, in terms of protected structures and any safeguards to the public good. We need to ensure that nothing is compromised through this process. We also want to be aware of unintended consequences in that regard. Each of the 31 local authorities has a broadband officer, as the Senator is aware. Each application will be subject to all of the data from NBI in terms of mapping procedures, and that will be available to local authorities.

On questions from citizens, local authorities are the closest arm of Government to our citizens and provide more than 600 services. The broadband officer is there to assist in any specific applications from the customer's perspective or the interaction with the mapping tool on the website, which is very advanced. One of the common frustrations I hear from people is the length of time they are waiting in terms of being on the map. This is one of the tools in our suite of armoury to try to get that process to the front door as quickly as possible.

**Senator Aisling Dolan:** I thank the Minister of State. There has been action. We can see vans in our areas. That gives such hope. We are getting very used to looking at the map and hitting refresh. We hope to see it change to show where we are able to access broadband. I acknowledge that action is happening. It is great to see that the process has been accelerated and the administrative process has been streamlined. I thank the Minister of State and the Chair.

**Chairman:** I thank Senator Dolan. I will move on to the second Sinn Féin slot.

**Deputy Ruairí Ó Murchú:** I appreciate that Deputy Gould shared time. I apologise if anyone can hear any sound in the background. I am in a committee room in the convention centre and someone thought it would be a good idea to put the volume on full.

I thank the Minister of State and his officials. We obviously welcome the amendments on section 254. I want to ask a couple of questions on section 254. It is very welcome that this is a means across all local authorities to ensure there is a single mode for NBI to deal with every local authority. The process will be the exact same. We all know that from time to time things can depend on whether one is dealing with a really good planning officer in a particular local

authority. We could not leave that to chance for major strategical infrastructural projects such as this.

That part of the process is welcome. It went into operation some time in May. I remember speaking to NBI about it three weeks later. It said it was too early to tell, but it was somewhat supportive of it. I understand that it engineered a solution. It had a problem in relation to road-opening licences. It is straightforward. If 20 poles are needed and one needs to be moved on-site, a new road-opening licence is needed which creates a hold-up of between two and 12 weeks. They got around this by, where they might have needed ten, putting in planning for 20 and building in redundancy. Some of that is making up for the fact there is a problem in local authorities. I have heard from Vodafone and others that planning in local authorities is not set up for major infrastructural projects. It needs to be looked at across the board. The perfect solution for them was a permitting system whereby they would be able to put in a plan and, if there were alterations, they could be done on the fly. Everything would still have to be signed off at the end, which would cover some of what Deputy Cian O'Callaghan was talking about. Has the Minister of State considered or made plans in relation to doing this? These section 254s are welcome but it is not the end result we need to facilitate the roll-out of major infrastructural projects in local authorities.

**Deputy Peter Burke:** The Deputy raised a valid point. We have €116 billion in Project Ireland 2040 through our national development plan to underwrite many key public infrastructural investments that we need. Our planning code is under review in terms of how to best deliver this public infrastructure through our local authorities. There have been difficulties in the past but we want to make sure those with a valid issue, such as NGOs, have the opportunity and facility to raise it. It is about striking a balance. The programme for Government commits to a review of the system and having our environmental planning court, which is currently in gestation in the Department of Justice and will link in to a review of our judicial review system. All those points will assist in delivering key public infrastructure. The last thing we want is to have infrastructure held up in the planning system. We are keen to progress that as part of the programme for Government.

**Deputy Ruairí Ó Murchú:** I appreciate that. Does the Minister of State think that within that a solution to this planning permission system could be looked at? The national broadband plan is not only dealing with local authorities, but also with Transport Infrastructure Ireland, TII. Has the Government had any interaction in relation to that or dealt with any problems? If there is a need for a change of plan, we do not want a major project like this held up for two or three days and certainly not for a number of weeks.

**Deputy Peter Burke:** Absolutely. I was referring to other large-scale public infrastructure, not the national broadband plan, just in case anyone was starting to get worried. Guidelines were issued through the local authorities last May. We see this as an operation to speed up, not to have double charging in place and to provide certainty to National Broadband Ireland as it goes about interacting with the 31 local authorities. Do Mr. Neary or Mr. Loughlin want to add anything?

**Mr. Patrick Neary:** The section 254 update under consideration is an important piece of the puzzle and will be welcomed by industry in general, NBI and other operators as a means to enable broadband provision. The Deputy is raising wider issues regarding the road-opening licence regime. Our Department and that of the Minister of State is consistently looking at feedback from industry on that. The local authorities through the Local Government Management Agency, LGMA, review the guidance they give on how the road-opening licence regime

is implemented.

We continually look to see how it could be optimised. It is on the agenda that, where improvements can be made, we will consider them. With the NBI roll-out happening in rural Ireland, we are getting a lot of feedback on how it is working. Other operators come forward with feedback on things that could be improved. We have recently, through the mobile phone and broadband task force, implemented a revision of the guidance provided to local authorities on the road-opening licence regime. That process will continue.

**Deputy Ruairí Ó Murchú:** I appreciate that. Only by doing this will the feedback loop be created that provides the information to improve it. That is brilliant. I do not want to get into the mobile phone and broadband task force. That is meant to be retasked and re-engineered and it is probably sitting in the wrong Department. That needs to be sorted. That would allow it to be a clearing house for NBI and others to deal with issues that we sometimes deal with in this House. There is probably a more streamlined fashion than messages over and back across the convention centre.

It seems NBI welcomes this and I accept the next question I will ask does not necessarily fall into the Minister of State's bailiwick but the discussion on NBI has two parts. There was the delay in relation to Covid. There were meant to be 115,000 connections at the end of this year but, at the beginning of January, people recognised a difficulty and the number is, conservatively, between 50,000 and 70,000. NBI reckons it can deliver that but the Government does not want to make a promise that is not followed through on. My understanding is that in the first six months of next year, that will be caught up on. Beyond that, the big question is the acceleration plan. That plan is about what is meant to come in year six and seven falling into years four and five, which means Eir has to have the capacity alongside NBI and whoever else. I know contracts are being drawn up but has the Minister of State information on that? We all await this plan.

Another part which falls in the Government bailiwick is that the mobile phone and broadband task force and other elements of Government need to look at interim solutions for areas that will be waiting for three, four and five years in a best-case scenario. At the transport and communications committee we had the likes of Digiweb and Novatel and we had much discussion on the likes of Starling. Some of these may provide alternatives for these-----

**Chairman:** We are well over time on this slot. As the Deputy says, it is something we deal with quite a lot in the transport and communications committee, on which he and I sit. I will allow the Minister of State to come in briefly.

**Deputy Peter Burke:** I would be cautious about straying out of my brief in terms of the national broadband plan so----

**Deputy Ruairí Ó Murchú:** We are all friends here.

**Deputy Peter Burke:** Between that and road-opening licences, we are in the area of the Department of the Environment, Climate and Communications. I do not want to say something for fear of not having the knowledge.

**Deputy Ruairí Ó Murchú:** I apologise. I may have strayed.

**Deputy Peter Burke:** No problem.

**Deputy Joe Flaherty:** I thank the Minister of State and the Department officials for coming in. It is important that we get this through. It is good to get an insight into the workings of it as well. I welcome the assurance from the Minister of State that he is working on potential funding for Longford County Council, both in respect of the LPT and rates. The Minister of State put significant work into getting €1.2 million for the local authority in Longford this year to offset that rates shortfall but, as he is well aware, it will be a major issue right up until 2026 as the power station was not originally scheduled to close until 2027. In terms of moving forward, the local authority is anxious to see certainty of funding to take it up to 2026.

Although it is not his area, the Minister of State, who comes from the other rural half of our constituency, will be well aware of the concerns about the roll-out of broadband. That is why this is so important. We can have no excuse for the national broadband plan and it needs to be rolled out. The Minister of State will also be aware that we have an issue in Edgeworthstown where we are trying to get Eir to connect the new public hub that is going to be opened there right across the road from the new public library. Edgeworthstown is the second largest town in County Longford. These are the two biggest capital projects in Edgeworthstown in recent times and it is regrettable that Eir has not met the project promoters halfway and taken the strides necessary to put in place the fibre connection that they need for this. The Minister of State is working quietly on this issue in the background. I have also raised it with the Minister with direct responsibility in the area. It seems somewhat remiss if we go ahead with opening a hub for remote working and we are not able to assure the users that they will have fibre broadband in the second largest town in County Longford. Any assistance the Minister of State and his officials can give us in addressing that would be greatly appreciated.

**Deputy Peter Burke:** We are keen to see that project progress. As the Deputy says, Edgeworthstown is such a key town in Longford and has grown so much over the past number of years that we need to see certainty there. I would absolutely commit to working with the Deputy in that regard. This highlights the issue in terms of the just transition of certainty. The just transition commissioner, Mr. Kieran Mulvey, is on the record as stating when he formulated the plan that local authorities need to be given certainty. When you look around the country, in Longford, Offaly and Clare, these local authorities that were so much dependent on a key income stream from their rates budget from these old production facilities and Bord na Móna, there is such a transition. We need to be so careful that we do not compromise the ability of our local authorities to discharge all those services to citizens. Certainty is absolutely required. I am working hard with the Deputy and the team in Longford County Council in trying to deliver that certainty to them. I want to get away from a situation where it is a negotiation every single year trying to deliver this and that we have certainty into the future which gives them the opportunity to plan their finances in a more sustainable way. I am happy to commit to continue working with the Deputy in the future in that regard.

**Chairman:** I thank the Minister of State. We will move on to the second independent slot. Is it Deputy O'Donoghue? Senator Boyhan had another committee meeting to attend. I will move on to the second Green Party slot.

A question has just occurred to me. This licensing applies to new networks for them being put in. Does a licence need to be applied for where a pole is being replaced?

**Deputy Peter Burke:** I do not think so but I am open to correction. Mr. Loughlin or Mr. Neary might give clarification on that.

**Mr. Patrick Neary:** I can clarify that where it is a remediation of an existing pole, that does

not fall under section 254. This is for new poles or the laying of new cable on existing poles.

**Chairman:** What occurred to me was that there is probably a new standard or maybe a standard that is being enforced now where when you place something on a pavement, it has to be recessed back a certain distance from the kerbside. It is to allow for vehicle sweep or vehicle overhang. Previously, that standard was not there or was not enforced. Many poles will have to be replaced as part of the broadband scheme. You could end up in a situation, especially on rural roads or rural footpaths, which tend to be quite narrow historically, that the contractor is obliged to comply with the standard to recess it back from the kerbside. I have a situation up on the Enniskerry Road where the pole was placed back to the standard from the kerbside but it was right in the middle of the footpath. It made the footpath impassible for somebody in a wheelchair or with a buggy. I wonder is that something where we need to have a little cross-over. That may come under roads or design. I do not know who it would come under. There should be consideration of that where poles must be replaced as part of the broadband upgrade to maintain that accessibility. We see the same with utility boxes are placed as well. If there are customer connections, I presume there are some sort of footpath-mounted cabinets as well. That same consideration also applies there.

This is the second time we will have amended section 254 because we had to give the leeway for the footpath furniture and the outdoor dining. In all that we consider, we need to maintain that full accessibility and to ensure that what we are doing to benefit one project or sector does not end up impacting on another sector in terms of access through and along the footpaths. It is merely a comment. I hope the Minister of State would take that on board. Dublin City Council issued guidance recently on the section 254 licensing of tables and chairs to ensure that the 2 m gap is left. That is something, as we go through the summer, local authorities need to monitor and, where necessary, step in and take action on.

**Deputy Peter Burke:** That is a key point. I also met with the Minister of State at the Department of Health, Deputy Anne Rabbitte, this morning in respect of the disability sector regarding unintended consequences in relation to outdoor furniture. We will be reminding local authorities of their responsibilities in that regard, not to inhibit business but to be respectful of citizens who are more vulnerable in society, that disabled parking bays are not being taken up or replaced with outdoor furniture. We need to be careful in how we go about our business in that regard. My antenna is always up in the context of unintended consequences.

**Chairman:** I will move on now. The two final slots are a Fianna Fáil slot and a Fine Gael slot. We have covered most of it. I am not sure whether anyone wants to come in on either of those two.

**Deputy Joe Flaherty:** I have nothing more to offer.

**Chairman:** I thank Deputy Flaherty. That concludes our consideration of the Planning and Development Act 2000 (Section 254 – Overground Telecommunication Cables) Regulations 2021. I thank the Minister of State and his officials for their attendance, for answering our questions and for the briefing document that was provided. I also thank the members to attending.

### **Messages to Dáil and Seanad**

**Chairman:** In accordance with Standing Order 101, the following message will be sent to

the Dáil:

The Joint Committee on Housing, Local Government and Heritage has completed its consideration of the following motion:

That Dáil Éireann approves the following Regulations in draft:

Planning and Development Act 2000 (Section 254 – Overground Telecommunication Cables) Regulations 2021,

a copy of which has been laid in draft form before Dáil Éireann on 9th July, 2021.

In accordance with Standing Order 75 the following message will be sent to the Seanad:

The Joint Committee on Housing, Local Government and Heritage has completed its consideration of the following motion:

That Seanad Éireann approves the following Regulations in draft:

Planning and Development Act 2000 (Section 254 – Overground Telecommunication Cables) Regulations 2021,

a copy of which has been laid in draft form before Seanad Éireann on 9th July, 2021.

The joint committee adjourned at 4.28 p.m. *sine die*.