



An  
Bord  
Pleanála

## Inspector's Report ABP-308931-20

### Development

Replacement of an existing 10m wooden pole for a 15m high free standing communications structure with its associated antennae, communication dishes, ground equipment and all associated site development works.

### Location

Kells Eircom Exchange, Haggard Road, Kells, Co. Kilkenny.

### Planning Authority

Kilkenny County Council

### Planning Authority Reg. Ref.

20/394

### Applicant(s)

Eircom Limited

### Type of Application

Permission

### Planning Authority Decision

Refuse Permission

### Type of Appeal

First Party

### Appellant(s)

Eircom Limited

### Observer(s)

Edward O'Keeffe and Others  
Gervase O'Connell and Others

**Date of Site Inspection**

13<sup>th</sup> May 2021

**Inspector**

Phillippa Joyce

## **1.0 Site Location and Description**

- 1.1. The appeal site is located in the village of Kells, c. 15km south of Kilkenny City. The site comprises the existing Eircom Exchange premises, on the northern side of the Haggard Road (L1026). The centre of the village is formed by a crossroads where the Haggard Road intersects with the Kells Road (R697). The appeal site is c.80m southwest of the village centre.
- 1.2. The Eircom property currently accommodates the exchange building, a rectangular flat roofed utilities structure c4.5m high, a 10m wooden pole with an existing dish, and is bound by a traditional stone wall running along the road. The existing pole is sited behind the exchange structure, c.16.5m from the road. The appeal site is rectangular in configuration, with a stated area of 0.0016 ha. The wider Eircom property is outlined in blue, with a right of way indicated in yellow, facilitating access from the public road to the telecommunications infrastructure.
- 1.3. In the vicinity of the appeal site are primarily detached residences of varying design and height. Adjacent on the eastern side of the exchange building is a single storey detached dwelling, while to the west is vacant traditional cottage. The lands adjacent to the north (rear) of the site rise in level and comprise a small residential estate, Priory Grove. Further to the southeast, c.150m, is another residential estate Burgess Court.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the following elements:
  - Removal of the existing 10m wooden pole;
  - Replacement with a 15m free standing communications structure with associated antennae, communication dishes, and ground equipment; and
  - All associated site development works.
- 2.2. During the assessment of the application, the planning authority requested Further Information (FI) on procedural and technical items. The response to the FI request, which was received by the planning authority on the 2<sup>nd</sup> November 2020, did not alter or amend the nature and scale of the proposed development.

## **3.0 Planning Authority Decision**

### **3.1. Summary of the Decision**

- 3.1.1. On the 26<sup>th</sup> November 2020, the planning authority decided to refuse permission for the proposed development, citing one reason as follows:

*Having regard to the location of the site within the village of Kells in very close proximity to existing dwellings and given the height and diameter of the pole and associated antennae of the proposed telecommunications structure, it is considered the proposed development would seriously injure the amenities, and potentially depreciate the value of property in the vicinity of the proposed development. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The planner's reports are the basis for the planning authority decision. The key items from the planner's initial report and the subsequent FI report are summarised as follows:

- Existing wooden pole is similar in scale and design to nearby electricity poles;
- Replacement mast is higher and bulkier in design with additional equipment;
- Comprehensive visual impact assessment is necessary, and the photomontages submitted are views from the public roads and not from within proximate residential estates;
- Concern expressed regarding the location of the proposal in a rural village, proximity to residences, visually obtrusive and detract from amenities;
- FI request seeks the identification of the operator, services to be provided on the mast, the land owner, and technical information on the proposed development's role in the National Broadband Plan, and evidence for co-sharing with an 18m telecommunications mast granted to Three Hutchison under PA Ref. 16/240;

- FI response indicates the operator being Eir, the landowner being Eircom Limited, equipment on the mast will be providing 2G, 3G and 4G necessary to improve mobile and broadband services in the area, and that it is not suitable to co-share with the existing Three Hutchison mast as the separation distance is too far and that mast is not of a sufficient height;
- Logic of locating at the existing exchange to connect into the fibre optic cable is noted;
- However the justification for the proposal is not accepted due to the generality of the information provided and the absence of evidence or quantification of the deficiencies in the local coverage;
- Requirement for Stage 2 Appropriate Assessment screened out; and
- Recommendation is made that permission be refused.

#### 3.2.2. Other Technical Reports

Roads Department: Planner's report refers to a Roads report concluding no objection.

#### 3.3. Prescribed Bodies

None received.

#### 3.4. Third Party Observations

3.4.1. Three third party observations were received by the planning authority, each in objection to the proposed development. The main issues raised can be summarised as follows:

- Proposed mast is in close proximity to the observers' residences with distances ranging from 21m (P. Thomson, 4 Priory Grove), 30m (M. Phelan, 5 Priory Grove), and 40m (S. & M. O'Donnell, Kells);
- Inappropriate location as it is too close to private residences, many with families and children, the national school, and the playground;
- Visual impact assessment submitted is biased and does not include a view from Priory Grove estate, and the view from Burgess Close estate is obscured by trees;
- Will have a negative visual impact on existing views from properties;

- Will be an eye sore within the historic landscape of the village;
- Disregard of the architectural sensitivity of the village;
- Will devalue the observers' properties and other adjacent properties;
- Concerns on health grounds from radiation sources (electro magnetic fields, radio frequency waves) and low noise levels affecting sleep;
- Criticism of the display and visibility of the public notice;
- No consultation or engagement with the local residents;
- No objection to the replacement of the existing mast with another of similar size and specification; and
- No need in the village for a mast of the size and nature proposed.

## 4.0 Planning History

### Appeal Site

There is no record of planning history at the site.

### Telecommunications Masts

*PA Ref. 16/240*

Retention permission granted on a permanent basis on 12<sup>th</sup> July 2016 to Three Ireland (Hutchison) Limited for an existing 18m mast with antennae and other equipment.

This permission is referenced by the planning authority in respect of the applicant co-locating with this mast, identified as being c.880m to the south of the subject site.

## 5.0 Policy Context

### 5.1. National Policy

#### Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities, 1996

- 5.1.1. These Ministerial Section 28 planning guidelines, and the subsequent Circular Letter: PL 07/12, are relevant to applications for telecommunications structures.

- 5.1.2. The planning guidelines provide guidance on design, siting, sharing facilities and clustering of structures.
- 5.1.3. Section 4.3 of the planning guidelines identifies visual impact as being among the most important considerations in assessing a proposal of this nature. Of relevance to the appeal determination, the guidelines highlight the following:
- In most cases the applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters;
  - Some masts will remain quite noticeable in spite of the best precautions;
  - Along major roads...masts may be visible but yet are not terminating views...in such cases it might be decided that the impact is not seriously detrimental;
  - Along such routes, views of the mast may be intermittent and incidental, in that for most of the time viewers may not be facing the mast. In these circumstances, while the mast may be visible or noticeable, it may not intrude overly on the general view of prospect;
  - There will be local factors which [will determine] 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; and
  - 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.
- 5.1.4. Section 4.5 of the planning guidelines identifies the importance of sharing of installations and clustering structures to reduce the visual impact on the landscape. Of relevance to the appeal determination, the guidelines highlight the following:
- All applicants will be encouraged to share and will have to satisfy the authority that they have made a reasonable effort to share; and

- Where it is not possible to share a support structure the applicant should, where possible, be encouraged to share a site or to site adjacently so that masts and antennae may be clustered.

Circular Letter: PL07/12

- 5.1.5. Issued in October 2012, Circular Letter: PL07/12 updates certain sections of the planning guidelines. In relation to conditions, the Circular advises against the inclusion of any relating to a temporary time period, monitoring arrangement, security bond in the event of obsolescence, or development contribution.

## 5.2. Local Policy

- 5.2.1. The applicable development plan is the Kilkenny County Development Plan 2014-2020 (CDP). Section 9.4.1 relates to telecommunications which recognises the importance of a high quality telecommunications service and that it is Council policy 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.'*
- 5.2.2. Broadly, in respect of the development management process, Section 9.4.2.1 states regard will be given firstly, to the visual impact on the natural or built environment (particularly to sensitive or historic landscapes – included in Appendix H of the CDP are two protected views (V20 and V24) towards Kells Priory, both of which are outside of the visual range of the proposed development), secondly, to potential for co-location of equipment on existing masts; and thirdly, to the Planning Guidelines and the Circular.
- 5.2.3. Further policy is included in Section 9.4.2.1 with regard to site selection whereby telecommunication masts and associated equipment in three types of locations will be discouraged including in highly scenic areas, in close proximity to certain uses such as schools, churches, creches, and in residential areas.
- 5.2.4. Remaining policy in Section 9.4.2.1 places a strong emphasis on co-locating infrastructure to avoid potential injury to visual amenities caused by a proliferation of structure. Applicants of new structures are required to provide documentary evidence of the non-availability of other masts.

## 5.3. Natural Heritage Designations



- 5.3.1. The appeal site is not located in or immediately adjacent to a European Site, a Natural Heritage Area (NHA) or a proposed NHA. To the northeast of the site and Kells village runs the River Kings (Kings River), a tributary of the River Nore.
- 5.3.2. The European Site designations in proximity to the appeal site include (measured at closest proximity):
- River Barrow and River Nore SAC (002162) is c.230m to the northeast; and
  - River Nore SPA (004233) is c.362m to the northeast.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. The following is a summary of the main issues raised in the first party grounds of appeal:
- The subject site is an existing Eircom exchange compound which has an established communications installation and mast in place for over 20 years;
  - The site was selected due to this established use and the existence of a 10m mast;
  - The proposal is an upgrade of the existing mast, connecting into the fibre optic cable in the exchange structure;
  - This location choice and the access to the fibre optic cable ensures less equipment to be attached on the mast, and for the support structure to be smaller than if being constructed elsewhere;
  - The applicant, trading as Eir, has a coverage blackspot in Kells village, whereby their customers have marginal indoor mobile coverage to make telephone calls and are unable to use their devices for data;
  - The proposal will provide 2G, 3G, and 4G coverage from the Eir network thereby improving voice and broadband access for residents and local businesses;
  - Mapped images are provided indicating the extent of existing indoor mobile communications coverage and the extent of coverage with the proposed

development (encompassing an area beyond the development boundaries of the village);

- Telecommunications is an essential fourth utility service and enhanced broadband access is required especially in the light of the current pandemic and people required to work and study from home, and reference made to the commitments in the National Broadband Plan;
- Prior to making the application, the existence of masts in proximity to Kells that would be suitable for co-locating was investigated;
- A single mast was identified in a 2km radius, the Three Hutchison 18m monopole located c. 880m to the south of the site;
- Co-locating with this mast was not possible due to the distance to the required coverage area (high speed services have a range of 500m so need to be in that targeted built up area), and the restricted height of the mast (there is obstructing vegetation between the mast and the required coverage area);
- The proposed mast is capable of facilitating co-locating with multiple operators of mobile and broadband services;
- No evidence of devaluation of properties as stated in the planning authority refusal reason;
- Telecommunications are becoming more normal features in the country and the general population are accepting same and realising their importance;
- Slimline monopole support structure selected for the site to reduce visual impact;
- The structure is similar to the existing pole being decommissioned and to lamps or traffic light poles which feature in villages;
- 15m is the lowest height possible for the support structure so as to facilitate the future co-location of other service operators as required by the planning guidelines; and
- The structure will be visible but the views will be intermittent and the applicant's view that the structure will not be detrimental to the overall amenity of the area.

## **6.2. Planning Authority Response**

6.2.1. A response to the first party appeal has been received from the planning authority, the main items raised in the response can be summarised as follows:

- Planning authority has provided screen grabs taken from the Commission for Communications website indicating that six operators have good or very good 4G coverage in the Kells area;
- The remaining two operators, including Eir, have coverage of fair and fringe;
- If that level of coverage exists in the area at present for other operators, then it is stated as logical that Eir should be able to provide that coverage;
- No evidence has been provided indicating that the existing Three Hutchison mast could not be altered in height to give the required elevation to the equipment;
- Eircom is relying on the convenience of the older telephone exchange to install the mast;
- It has not been demonstrated the subject site is the only feasible site;
- The infrastructure aligns with the National Broadband Plan but is not directly connected to the plan; and
- Mast would provide improved Eir services, but is not sufficiently justified at this central village location, adjacent to residences, for a single operator.

## **6.3. Observations**

6.3.1. Two observations have been received on the first party appeal, one from a previous third party observer (P. Thomson, on behalf of himself and a number of named parties, including E. O'Keeffe and others), and from a new observer (G. O'Connell and other named parties) with addresses at Burgess Court. The main items raised in the observations can be summarised as follows:

- Inappropriate location as too close to private residences, 6.5m from the closest occupied dwelling, creche, school, and village centre uses;

- Agrees with the planning authority refusal reason and considers additional refusal reasons should apply, including: reference to childcare facilities, absence of a site search for less visually obtrusive locations; insufficient evidence to justify mast; insufficient identification of deficiencies in the local network; potential for transfer of ownership; detrimental visual impact on the historic character and tourist appeal of the village;
- Includes image extract from Eir website which indicates 4G coverage does exist in the Kells area;
- No explanation given for the mast being required to be 500m from the customer base, with reference made to the National Broadband Plan typical cell radii range being 2km-5km in rural areas;
- Insufficient justification for not co-locating with other masts, including the Three Hutchison mast (questions claim of obscuring vegetation), and another mast stated as being 1.4km away in Stoneyford, a rural location;
- Correspondence included from a local auctioneer confirming the potential devaluation of homes in the vicinity of the mast;
- Disputes applicant's position in respect of potential for co-locating, extent of visual impact, improved local coverage, and compliance with national and local planning policy;
- Village centre site and the mast will be highly visible from many properties in Burgess Court;
- Mast is industrial in design, out of keeping and out of character with the village character;
- Perception of health concerns from those living close to masts;
- No communication by the applicant with the residents about the need for the mast;
- Only site considered for the mast is that owned by Eir;
- States there are no coverage issues with phone voice and data reception in the area;

- Eir's intention is to facilitate new operators and attract service providers to use the mast for commercial gain; and
- Mast will devalue properties in Burgess Court as many will look out onto it.

## 7.0 **Assessment**

7.1. I consider the main items in determining this appeal are as follows:

- Principle of Development;
- Rationale for Development;
- Amenities of the Area; and
- Appropriate Assessment Screening.

### 7.2. **Principle of Development**

- 7.2.1. There is an established utilities use (the applicant states for over 20 years) at the site which accommodates a telephone exchange structure and a telecommunications pole and dish. The proposal seeks the replacement of the existing pole with a new mast connecting into the fibre optic cable at the exchange. I consider the proposed development to be an intensification of the utility use and, notwithstanding the existence of the wooden pole, the proposed development to be the erection of a new freestanding mast structure and subject to compliance with national and local planning policy, as assessed below, to be acceptable in principle.
- 7.2.2. The applicable development plan is the Kilkenny County Development Plan 2014-2020 (CDP). The appeal site is located within the development boundary of Kells village. The CDP does not contain a zoning objective for the village and, as such there is no zoning matrix indicating the permissibility, or otherwise, of the telecommunications use at the site. As such, in addition to the existing use at the site, other considerations in respect to the principle of development arise from the national and local policy on site selection and co-locating of equipment with other masts.
- 7.2.3. In respect of site selection, Section 9.4.2.1 of the CDP seeks to discourage the location of infrastructure in proximity to schools, churches, creches, and in residential areas. The appeal site is located on a street in the village, and is proximate to such

uses. While Section 9.4.2.1 is not expressly referred to in the planning authority's refusal reason, consideration of these items has clearly featured.

- 7.2.4. The CDP in turn refers to having regard to the planning guidelines, the requirements of which I consider are a material consideration in this appeal. National planning policy in Section 4.3 outlines that it is only as a 'last resort' that free standing masts should be located within a village. As the subject site is located within the village, I consider that the applicant in the first instance must demonstrate that the subject site is a 'last resort' site.
- 7.2.5. In respect of co-location, Section 9.4.2.1 of the CDP places a strong emphasis on the co-sharing of mast structures for attaching equipment, and if not possible, of applicants providing documentary evidence of the non-availability of other masts. Similarly, Section 4.5 of the planning guidelines states that an applicant will have to satisfy the authority that they have made a reasonable effort to share, and if sharing is not possible, clustering of masts may be appropriate.
- 7.2.6. As is discussed in the following subsections, while the site may be suitable for development as is being proposed (due to the existing use and infrastructure, and no designations or protections at the receiving area), it is considered that the applicant has not satisfactorily demonstrated that the subject site is the 'last resort' in so far as other alternative locations not existing, or that a reasonable effort has been made to share with the existing mast of another operator. Both of which are requirements in the planning guidelines (Section 4.3 and Section 4.5) and in the CDP (Section 9.4.2.1).

### **7.3. Rationale for Development**

- 7.3.1. The applicant's rationale for the development has a number of elements including rectifying a coverage blackspot, contribution to the National Broadband Plan (NBP), the absence of alternatives, and appropriateness of the appeal site. Due to the requirements of national and local planning policy for co-locating of telecommunications infrastructure, the assessment by the planning authority, and comments by third parties, I consider the rationale for the development to be key to the appeal determination, and I propose to address each element in turn.

#### **Coverage Blackspot**

- 7.3.2. Eir, as operator, has a coverage blackspot in the Kells area which it seeks to address. From the information provided in the initial report and the first party appeal, the coverage referred to is indoor coverage with images provided of current and proposed coverage. In the documents submitted by the applicant, it is stated that 2G, 3G, and 4G coverage will be provided via the proposal improving voice and high speed data service for mobile users.
- 7.3.3. While I note the third party submissions and observers question the absence or lack of coverage from their experience, I have no reason to not accept the applicant's position for seeking to improve coverage, which appears to be substantiated by the planning authority's appeal response that indicates Eir's 4G coverage as being fair. However, the planning authority does also submit that other operators are achieving good to very good coverage and it is my understanding that the planning authority is inferring that this coverage is achieved in the absence of masts for each operator, as only one mast, for Three, exists in the area. as is discussed below, it is the manner by which the coverage can be improved for the applicant that is fundamental.

#### National Broadband Plan

- 7.3.4. In respect of the applicant's position to the contribution made to the NBP, I have reviewed same and consider the information provided to be vague and general in how the proposed development contributes to same. I also note that in the Further Information (FI) response, the correspondence provided by Eir makes reference to mobile voice and data coverage, as opposed to assisting broadband roll out per se. In this regard, I agree with the position of the planning authority in the appeal response, in that the proposed development is complimentary to the general objectives of the NBP but not an essential contributor to same.

#### Alternatives

- 7.3.5. As outlined in Section 5.0 above, policy in both the planning guidelines and CDP focuses on alternative ways in which to provide telecommunications infrastructure, be that of suitable locations (dependant on sensitivity) and methods (sharing and clustering). In particular, the policy context seeks sharing of facilities to prevent a proliferation of masts so as to reduce their visual impact in the landscape.
- 7.3.6. The applicant's position in respect of alternatives focuses on co-locating with the Three Hutchison mast, which I calculate to be c.920m south of the site. The

applicant submits that co-locating with this mast was investigated but was dismissed due to the mast being too far away from the area to be served, and the mast being too low in height for the signal range to reach the area. With regard to distance, the applicant states that a range of 500m is required for the high speed services sector antenna and as such these installations need to be in a built up area, while with regard to height, the applicant states that while there is space on the mast for equipment at a height of 15m, this is too low due to obstructing vegetation.

- 7.3.7. I consider that these statements are vague and general, without any supporting documentary evidence. There is no additional explanation to substantiate the sector antenna range, no map-based identification of the obscuring vegetation, no evidence of attempts to enter into agreements to cut or manage same. There is no evidence of any attempts with Three or the landowner to co-locate on the mast, there is no correspondence of attempts for an alternative option at this mast, for example, an increase of the height of the mast (as suggested in the planning authority's appeal response) or, potentially, of clustering by proposing the new mast adjacent to the Three mast, as is a preferential alternative recommended in the planning guidelines.
- 7.3.8. In addition to sharing or clustering alternatives, an examination of alternative locations in and around the village, of other buildings to attach to, or other sites to purchase or lease, has not been provided as part of the application or appeal documentation. The information provided simply does not constitute sufficient evidence to allow a conclusion to be drawn that there are not alternatives to the proposed development that may be more suitable.

#### Appropriateness of Appeal Site

- 7.3.9. The applicant submits that the proposed development constitutes an upgrade to and replacement of the existing mast at the site, thereby availing of supportive policy on utilising existing masts, and highlights the added benefit of connecting to the existing fibre optic cable at the telephone exchange property.
- 7.3.10. In respect of the appropriateness of the site, I do consider the existing utility use and telecommunications infrastructure at the site to be a material consideration. In similarity with the planning authority, I also note the logic for connecting into the existing fibre optic cable at a property under the applicant's control. Had the applicant satisfactorily demonstrated the site to be the only reasonable option for the



proposed development, then Section 4.3 of the planning guidelines does advise that due to these reasons the appeal site would be an appropriate site in the village, and one that would be preferential to a new location in the village or a residential estate.

- 7.3.11. However, as I have outlined in section 7.2 above, I do not agree with the applicant's position that proposed mast can be considered to be a replacement of the wooden pole per se. The proposed mast is materially different in nature, scale, design and intensity of use. I consider the mast to be a new freestanding telecommunications structure with new and intensified impacts that is required to be assessed in accordance with policy on new freestanding structures.

#### **7.4. Amenities of the Area**

- 7.4.1. The planning authority's refusal reason states that the proposed development would seriously injure the amenities, and potentially depreciate the value of property in the vicinity. In my opinion, the proposed development is use class that is not injurious to residential amenity per se, nor a use associated with traffic generation, noise, or other public health issue.
- 7.4.2. In respect of traffic generation, save for construction traffic the trips arising would be minimal and there is sufficient capacity within the road network to absorb same. I note that the Roads Department report (as referred to in the planner's report) states no objection and no conditions are recommended.
- 7.4.3. In respect of public health, I note the concern raised in relation to radiation and noise emissions by the third parties and observers, however I highlight Section 4.6 of the planning guidelines, as supplemented by Appendix II, on the regulation regime for such standards in the industry.
- 7.4.4. As such, I consider the impact on the amenities of the area associated with the proposal relate to those of visual amenity. The applicant submits that the design approach taken has been to minimise the visual impact of the mast through the selection of a monopole and not a lattice structure, of a height and design as similar as is possible to the existing pole, with a minimum height at 15m that allows for sufficient space for co-location with other operators. I consider this design approach to be reasonable.

- 7.4.5. In establishing the visual sensitivity of the site and receiving area, I note that the context is urban (albeit a village), the site comprises an existing utility structure and telecommunication mast with dish (albeit a 10m wooden pole), and there are other utility masts and wires in the skyline at this location. The CDP has not identified or attached any landscape value, preserved view, architectural heritage, or other such amenity designation to the site and/ or its receiving area, which do exist for other locations in the village for the Kells Priory complex.
- 7.4.6. While I accept that the site is in a village context and there are residential properties in close proximity, I do not consider the receiving landscape to be fragile, as described in Section 4.3 of the planning guidelines, or of such sensitivity that the site would be unable to be developed. That being, I consider the site to be an appropriate location for the proposed development in the event that there was no reasonable alternative.
- 7.4.7. While the planning authority's refusal reason refers the location of the site within the village in very close proximity to dwellings, I highlight that for villages, the planning guidelines state that sites already developed for utilities should be considered (as per the proposed development), masts and antennae should be designed and adapted for the specific location (as per the proposed development), and the support structure should be kept to the minimum height consistent with effective operation (as per the proposed development).
- 7.4.8. With regard to the visual amenity of the subject property, the proposed ground level works, including the new cabinets, will only be visible to persons within the Eir property due to the almost complete enclosure provided by the existing boundary walls. These ground works are acceptable in terms of scale, design and finishes. For pedestrians and drivers on the public road, the visual impact of the replacement mast will be intermittent and incidental, and is therefore acceptable.
- 7.4.9. I have visited the appeal site, travelled in/ along the village streets and residential estates, and reviewed the applicant's photomontages, and the third party observer's montages and photographs. There is no disputing that for properties in the vicinity of and with aspects towards the site, the proposed mast will be visible and will exert a visual impact. The extent and degree of visual impact differs depending on the aspect, proximity, and screening. As current views are characterised by the existing

mast, as other utility poles and wires are established features in the skyline at this location, and as the proposed mast is a monopole design of the lowest possible height, I consider the visual impact of the proposed mast to be within acceptable parameters, as outlined in Section 4.3 of the planning guidelines.

- 7.4.10. The planning authority's refusal reason also cites the proposed development's potential to depreciate the value of property. I note that the planning authority does not provide any evidence for same in the assessment of the application or in the appeal response. The third party submissions referred broadly to the devaluation of property, and one of the observations received on the first party appeal includes correspondence from a local auctioneer stating there would be devaluation of property and providing estimations of same.
- 7.4.11. On the issue, the applicant states that telecommunication infrastructure is becoming more accepted by the general public as its importance is realised. I consider that the valuation of residential properties is market driven based on purchasers' choices, as such the devaluation of property due to the proposed development is subjective, a matter of opinion, and debatable rather than being evidential fact. As such, I do not consider the potential depreciation of value of properties to be a reasonable refusal reason in this instance.
- 7.4.12. On balance, I consider that the visual impact associated with the proposed development would be within acceptable parameters as allowed for in the national and local policy context. In forming this opinion, I have had regard to the existing utilities use and infrastructure at the site; to the design choice of a monopole and not a lattice tower; that the mast is 5m higher than the existing 10m pole; that there are other utilities, poles and wires, in the skyline at this location; and that 15m is the lowest possible height to allow co location by other operators which is a requirement of the guidelines.
- 7.4.13. In summary, I consider that the applicant has not satisfactorily justified the proposed development in relation to alternative locations and sharing existing telecommunications infrastructure, and therefore is not in compliance with applicable national planning policy in Section 4.3 and Section 4.5 of the planning guidelines, and the relevant local planning policy in Section 9.4.2.1 of the CDP. I consider that the appeal site is an appropriate location for the nature and scale of the development

as proposed. The proposed development would have a visual impact on properties in proximity to and with aspects towards the mast, but on balance, I do not consider the extent of same to be of such a degree to cause undue injury to the amenities of property in the vicinity to warrant a refusal reason on this item.

## **7.5. Appropriate Assessment Screening**

- 7.5.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the physical separation distances to European Sites, and the absence of ecological and/ or hydrological connections, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## **8.0 Recommendation**

- 8.1. I recommend that permission be refused for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

1.	Having regard to the provisions of the Kilkenny County Development Plan 2014-2020, to the Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities, as updated by Circular Letter: PL 07/12, to the location of the site within a village context, and to the existence of another telecommunications structure in the vicinity of the appeal site serving the same geographical area as that proposed in this case, it is considered that the applicant has not provided a sufficient examination of alternative sites with a justification for the current 'last resort' site, or satisfactorily demonstrated that coverage could not be achieved through co-location with (an)other operator(s) on an existing telecommunications structure. Therefore, the proposed development would be contrary to Section 4.3 and Section 4.5 of the Ministerial Guidelines, Section 9.4.2.1 of the Kilkenny County Development Plan 2014-2020, and to the proper planning and sustainable development of the area.
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Phillippa Joyce  
Senior Planning Inspector

31<sup>st</sup> May 2021