



An
Bord
Pleanála

Inspector's Report

ABP-309745-21

Development	Replacement of an 10m wooden pole for a 15 metre high free standing communications structure.
Location	Eircom Exchange, Archers Field, Kilmaganny, Co Kilkenny.
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	20794
Applicant(s)	Eircom Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Eircom Limited
Observer(s)	Archersfield Residents Association
Date of Site Inspection	21 st July 2021
Inspector	Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located within the development boundary of Kilmoganny in County Kilkenny.
- 1.2. The site is located within in the southwestern corner of an existing residential development known as Archersfield. The site is accessed by vehicle via the existing residential development and a pedestrian-only connection exists from this development/adjoining the appeal site to one of the main streets in the village to the west. The eastern boundary of the site adjoins an existing detached dwelling in Archerfield; to the north is the existing access street in the estate, on the opposite side of which is a tennis court within the residential development; to the south is a grassed/garden area; and to the west is the large rear garden of an existing dwelling which fronts onto the main street to the west.
- 1.3. The site, which has a stated area of 0.00213ha, is located within the grounds of an existing EIR site which comprises a single storey exchange building, with a wooden 10m high telecommunications structure to the rear of the building. The site has a front grassed area with the EIR building positioned approx. 3m behind the front building line of the neighbouring dwelling to the east. The area to the rear of the building where the wooden monopole is located is shallow in depth.

2.0 Proposed Development

- 2.1. The proposed development is for the replacement of an existing 10m wooden pole for a 15m free standing communication structure (total height with antennas 15.05m) with its associated antennae, communication dishes, ground equipment and all associated site development works. The development will form part of Eircom Ltd existing telecommunications and broadband network.

3.0 Planning Authority Decision

3.1. Decision

Notification of a decision to refuse planning permission for the proposed development was issued by the planning authority per Order dated 26th February 2021. The reason for refusal is as follows:

1. The applicant has failed to demonstrate that the proposed structure located to the front of the existing Eircom Exchange structure on site, adjacent to Archersfield housing estate in Kilmoganny village, is the most suitable site for the proposed new 15 metre high free standing communications structure (total height with antennas 15.05m) with its associated antennae, communication dishes, ground equipment and all associated site works. The proposed development would constitute a highly obtrusive feature which would seriously detract from the amenities of the area. The location of the site in close proximity to residential properties, represents an incongruous and unacceptable development in this residential setting. The proposed development would seriously injure the amenities of the area and would be contrary to the proper planning and development of the area and to the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, July 1996.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning authority is summarised as follows:

- Having regard to the location and scale of the development in such close proximity to an existing residential housing estate and within the village of Kilmoganny, the PA has serious concerns.
- The applicant has not provided any evidence to back up the statement that 'due to the nature of the land it would not be possible to secure an alternative site that satisfies the requirement of the Kilkenny County Development Plan'.

- FI requested in relation to proposed occupants of the structure; whether structure required for delivery of 5G to Kilmoganny area; demonstrate why existing pole could not be upgraded; confirmation of ownership; identification of alternative sites and reasons why such sites excluded in favour of the proposed site.
- Following receipt of FI, the PA considered that the applicant failed to demonstrate that the site is the most appropriate location for the proposed 15m high telecommunications structure.

3.2.2. Other Technical Reports

Road Design Office – no objection.

Environment – no objection.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Two were received from 17 Archersfield (immediately east of the application site) and from Archersfield Residents. Issues raised included:

- Health and safety issues.
- Appearance, height and proximity to dwellings.
- Reference to 'replacement' in public notice, where structure is proposed in a new location.
- Site notice not erected for full required time.
- Proposal an eyesore for residents of Archersfield and the village.
- Prominent location next to dwellings, school and church.
- Less than 5m from a dwelling.
- Height will overshadow the estate as it is twice the height of houses.

- Recent refusal in Moville Donegal due to metal structure being out of keeping within residential areas and in middle of Moville.

4.0 Planning History

09/701 – Permission granted to Eircom Ltd for a 15m replacement wooden pole and 2 no dish antennae at rear of Kilmaganny Telephone Exchange.

[This permission was not implemented].

5.0 Policy Context

National Policy

5.1. Telecommunications Antenna and Support Structures – Guidelines for Planning Authorities, 1996 (issued by the Dept. of Environment, Housing & Local Government)

- 5.1.1. Section 4.3 states: ‘The visual impact is among 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.’
- 5.1.2. The Guidelines state 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’.
- 5.1.3. Section 4.3 further states ‘Some masts will remain quite noticeable in spite of the best precautions. The following considerations may need to be taken into account: -
- Along major roads or tourist routes, or viewed from traditional walking routes, masts may be visible but yet are not terminating views. In such cases it might be decided that the impact is not seriously detrimental.
 - Similarly 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 or prospect.

- There will be 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.

5.1.4. Section 4.5 (Sharing Facilities & Clustering) states:

- ‘Sharing of installations (antennae support structures) will normally reduce the visual impact on the landscape. The potential for concluding sharing agreements is greatest in the case of new structures when foreseeable technical requirements can be included at the design stage. All applicants will be encouraged to share and will have to satisfy the authority that they have made a reasonable effort to share’.
- ‘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. On hill tops clustering may not offer any improvement from the point of view of visual intrusion but in urban or suburban areas use of the same structure or building by competing operators will almost always improve the situation’.

5.2. **Circular Letter PL07/12 (October 2012)**

5.2.1. This Circular Letter updates the guidance document from 1996, addressing potential barriers in the planning area to the National Broadband Plan. Planning authorities are advised that attaching a condition to a grant of planning permission for telecommunications masts and antennae which limit their life to a set period should cease. Only in exceptional circumstances, where particular site or environmental conditions apply, should a permission issue limiting their life. Given the limited number of sites that have become obsolete, it is considered that the attachment of a condition to a grant of planning permission requiring the lodgement of a bond or cash deposit is no longer appropriate. It is therefore advised that, in general, future permissions should simply include a condition stating that when the structure is no longer required it should be demolished, removed and the site re-instated.

- 5.2.2. With regard to Development Plan and separation distances, the Circular states that such distance requirements, without allowing for the flexibility on a case by case basis, can make the identification of a site for new infrastructure very difficult. Planning Authorities should therefore not include such separation distances as they can inadvertently have a major impact on the roll out of a viable and effective telecommunications network.
- 5.2.3. With regard to health and safety aspects, the Circular reiterates that Planning Authorities should not include monitoring arrangements on health grounds and that Planning Authorities should be primarily concerned with the appropriate location and design of telecommunications structures as they do not have the competence for health and safety measures in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process.
- 5.2.4. Finally with regard to development contribution schemes, it is stated that all development contribution schemes must include waivers for broadband infrastructure provision and these waivers are intended to be applied consistently across all local authority areas.

Local Policy

5.3. Kilkenny County Development Plan 2014 – 2020

- 5.3.1. The development plan in force at the time of writing of this report is the Kilkenny County Development Plan 2014-2020.
- 5.3.2. Kilmoganny is designated a Smaller Town and Village in the Settlement Hierarchy.
- 5.3.3. Section 9.4 relates to Telecommunications.
- 5.3.4. Section 9.4.2 Telecommunications Antennae states:
- 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.
- 5.3.5. Section 9.4.2.1 Telecommunications Antennae Development Management Standards states:

When considering proposals for telecommunications masts, antennae and ancillary equipment, the Council will 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 sensitive landscape (See Chapter 8 Heritage) or historic importance;
- 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; 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, which could be injurious to visual amenities, the Council will encourage co-location of antennae on existing support structures and 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.

5.3.6. Section 8.2.10 of the plan relates to landscape character areas and the Landscape Character Assessment produced with the 2008 County Development Plan is referenced. The site appears to be located in the Upland Character Area. The site is not located in one of the character areas identified as being Highly Scenic/Visually Pleasing, nor are there are protected views in the area.

5.4. Draft Kilkenny City and County Development Plan 2021-2017

5.4.1. It is noted that at the time of writing of this report, the display period of material alterations of the draft plan had been completed.

5.4.2. The following objectives are noted:

Objective 10I 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 10J 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.

5.4.3. Section 10.4 of the draft plan relates to 'Telecommunications Antennae Development Management Requirements',

5.5. Natural Heritage Designations

The site is not located within or adjacent to a European Site. I note the River Barrow and River Nore SAC (002162) is located 2.6km northeast of the application site. The Lower River Suir is located 5.7km to the southwest. Hugginstown Fen SAC (000404) is located approx 6.5km to the southeast.

5.6. EIA Screening

The proposed structure is not a class of development included under Schedule 5 of the Planning and Development Regulations 2001, as amended. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The grounds of appeal as submitted by the applicant is summarised as follows:

- Eircom Ltd are seeking a location to provide mobile and broadband cover in the area.
- Current sites in the surrounding area do not provide adequate service for indoor high-speed mobile broadband or voice services. Eircom's current indoor coverage in the area is very poor to non-existent as shown in images 1 and 2 of the submitted appeal.
- Due to the nature of the land it would not be possible to secure an alternative site that satisfies the requirement of the Kilkenny County Development Plan.
- No existing structures within 2km of the site were identified. The proposed antennae have a range of 500m, so a search area of less than 1km is needed.
- Co-location will be facilitated.
- The structure selected is a slimline monopole structure to reduce visual impact. Proposal would not be out of character of be a visually obtrusive or an

incongruous element in a town such as this, and structure is not dissimilar to a lamp standard or traffic light.

- An 18m height was selected as no lower height could provide the required coverage and accommodate co-location.
- View of the structure would be intermittent and not detrimental, as per the submitted photomontages. Reference is made to ABP-308491-20.
- Telecommunication installations are often sited close to residential development and are commonplace in urban areas. Reference is made to ABP-307692-20.
- With more people working at home, the proposed upgrade would allow for much needed enhanced broadband provision to the village and surrounding area.
- Kilkenny County Development Plan and national and regional policy support such infrastructure.
- The proposed development should be granted for the following reasons: coverage blackspot; no alternative locations; existing communication installation; site sharing; visual impact; impact in a local context.

6.2. Planning Authority Response

The PA submitted a report stating they have no further comments to make and refers to the Planner's Report on file.

6.3. Observations

One observation was received from Archersfield Residents Association, the basis of which is summarised as follows:

- The telephone exchange building is on a site of only 213 sqm. The timber pole was erected around 2002.
- In addition to the reason for refusal, which the observer agrees with, it is further noted that the primary school is only 140m from the mast; the applicant failed to carry out a search for a more suitable site which could provide

coverage sought while being less visually obtrusive; and insufficient identification of deficiencies in the local network to justify the proposed development have been presented.

- There is an existing mast on Tower Hill, 2km south of Kilmoganny, with two operators providing services to the surrounding area. There is also an existing mast on the garda station in the village, which the applicant has not acknowledged.
- Much of the village hinterland is elevated and there are numerous locations which the appellant could have assessment for alternative mast locations.
- No rationale provided for why search limited to 2km and why National Broadband Scheme stipulation of 2km-5km does not apply.
- There is an extensive fibre broadband network around the village that is live and can deliver services locally. EIR site ownership is the driving force for site selection rather than justification on site suitability.
- Existing pole was erected in 2002 without the need for planning permission. This should not be considered precedent.
- Proposed co-location is disingenuous and response to FI in this regard is noted. The appeal refers to the need to provide an 18m high mast to facilitate co-location.
- The proposal at 15m high x 1.5m in diameter is not a slimline monopole and is not similar to a 6m high lamp standard or 4.5m high lamp pole as suggested.
- The proposal with co-location will be higher, bulkier and more top-heavy and will have adverse visual impacts and be out of character with the village.
- The additional photomontages are the same as those submitted with the application which was refused.
- Proposal will result in devaluation of property as per the attached auctioneer letter.
- Site notice not in place for 5 weeks.
- The appellant has not selected the most suitable site for a mast, if a mast is in fact needed.

- Proposal will be out of character with the village, be visually offensive very close to housing and will devalue houses in the vicinity.
- Existing houses have connections to the existing fibre broadband network.

6.4. 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 having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Consideration of Alternatives
- Impact on Residential Amenity and Visual Impact
- Appropriate Assessment

Principle of Development

7.2. The proposed 15.05m high telecommunications structure is located to the front of an existing EIR exchange building and is proposed to replace an existing 10m high telecommunications structure on a wooden pole, which is located to the rear of the existing exchange building.

7.3. The proposed mast is to form part of the Eircom Ltd. existing telecommunications and broadband network which is intended to provide for indoor voice and high-speed mobile broadband in the area. Direct connection to the proposed exchange building using fibre cabling is stated will provide fast speed internet broadband and mobile connectivity to the Eircom network. The applicant outlines that the proposal will allow site sharing with other operators.

7.4. In relation to the principle of permitting the mast, there is strong support at national and regional policy levels for the provision of broadband infrastructure. The provisions of the current county development plan reflect national policy and

guidance in the assessment of individual mast proposals. I therefore consider the principle of the proposed development at this location acceptable, subject to further assessment of relevant planning criteria.

Consideration of Alternatives

- 7.5. The Guidelines state 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'.
- 7.6. While the applicant already has a mast at this location, there appears to have been little consideration of alternative sites, with no detail submitted in this regard, as noted in the PA report. The applicant in my view has not adequately demonstrated that alternative sites, that are less prominent within the village, have been investigated, where such sites might prove equally effective in providing sufficient coverage. As noted above, the Guidelines states that, in certain circumstances sites already developed for utilities should be considered, however I note the utilities site in this case is particularly limited in area, with visual and residential amenity implications which are discussed further hereunder.

Impact on Residential Amenity and Visual Impact

- 7.7. The guidelines and associated circular states that Planning Authorities should be primarily concerned with the appropriate location and design of telecommunications structures, with visual impact among the more important considerations in arriving at a decision on a particular application.
- 7.8. Under Paragraph 9.4.2.1 of the Kilkenny County Development Plan, 2014-2020, it is stated that telecommunications masts will be discouraged in close proximity to schools, churches, creches, community buildings, other public and amenity/conservation areas and in close proximity to residential areas. I note the national guidelines/circular state no minimum distance between dwellings and telecommunications structures and states none should be applied in development plans.

- 7.9. The applicant has submitted a Visual Assessment and photomontages and considers the proposal to be acceptable and would not have a significant visual impact in the area.
- 7.10. The existing wooden monopole is located to the rear of the existing single storey utility building, whereas the proposed monopole, which will be 5.05m higher and have a wider diameter, will be located to the front of the exchange building and partially forward of the front building line of the neighbouring two storey dwelling to the east, the monopole being 2m from the shared boundary, with the proposed cabinet 1m from the boundary. With regard to impact on residential amenity, the siting of the proposed monopole will make it considerably more visible from existing residential dwellings when compared with the existing structure, in particular the dwelling on the immediately adjoining site, given the position of the monopole toward the front side elevation of that dwelling and its proximity to the side boundary. The structure will be highly visible from the street within the Archersfield development given its location, as well as from one of the main streets in the village to the west, to which there is a pedestrian access to the front of the EIR site. While the Guidelines consider that, in certain circumstances, sites already developed for utilities should be considered, the utilities site in this case is particularly limited in area and I consider the proposed monopole positioned to the front of the site would not just be noticeable (which is a consideration within the guidelines where such proposals may be acceptable) but would become visually intrusive given its scale and location. The proposed monopole would in my opinion be a dominant feature within the residential development and in the wider area and would not blend into the existing urban environment, as per the existing utility infrastructure.
- 7.11. I acknowledge the appellant's arguments that an improved network of telecommunication infrastructure is required for EIR and I further acknowledge that it is overall national policy to provide and improve the network of mobile telecommunication infrastructure throughout the country, however, having assessed the site and its surroundings, I consider that there is ample scope to explore alternative sites within the vicinity of the subject site, to cater for the demands and needs of the mobile operator, while at the same time, having a less detrimental impact on visual and residential amenity. I note references to other An Bord Pleanála decisions on telecommunications structure, and while each application is assessed

on its own merits, I note the site context of the referenced applications in relation to position within a village/town and proximity to dwellings are different to this application. Again I refer the Board to the Ministerial Guidelines on Telecommunications Antennae and Support Structures (1996) which states 'only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages...' It is my view that the telecommunications mast in such proximity to residential development constitutes an incongruous and inappropriate juxtaposition of land uses and would have an adverse and overbearing impact on residential amenity. This is particularly true in the case of the existing mast which is wider, bulkier and as such is more visually obtrusive than the existing monopole.

Appropriate Assessment

- 7.12. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a fully serviced location within a built-up urban area with no hydrological pathway to any European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or project.

Other Issues

- 7.13. As regards health and safety concerns raised with regard to the proposed mast, the licensing regime for mobile telecommunications operators administered by the Commission for Communications Regulation controls the emission of radiation from telecommunications antennae in light of the available scientific evidence regarding its impact on health. It would not be appropriate for the planning system to attempt to replicate the specific controls established by another legislative code. The concerns regarding health and safety raised in the appeal would not, therefore, justify a refusal of planning permission for the development.
- 7.14. I note, as highlighted in the observer submission, that there are discrepancies between the appeal documentation and those submitted with the original application, with references to an 18m mast required for co-location in the appeal documentation, however the 15m high structure is stated as acceptable for co-location in the original application documentation. Furthermore there are incorrect references to Tipperary

in the appeal documentation, while the original application documentation correctly references the application site. While I note the discrepancies, I am satisfied that I have sufficient information before me to assess the application.

- 7.15. Public notices have been submitted in accordance with the legislation. I note that the general purpose of the public notices is to alert the public to proposed development works on the site. This has obviously occurred given submissions received. I am satisfied that the description of the development is adequate.
- 7.16. I do not consider significant overshadowing of neighbouring properties will arise as a result of the proposed structure given the scale of the structure.

8.0 Recommendation

It is recommended for the reasons and considerations set out hereunder that permission be refused.

9.0 Reasons and Considerations

Having regard to

- (a) the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996,
- (b) the provisions of the Kilkenny County Development Plan 2014-2020 and
- (c) the height, scale and location of the proposed development in a residential area,
- it is considered that the proposed telecommunications structure by reason of its height, design and close proximity to neighbouring residential dwellings would be overbearing and visually intrusive when viewed from surrounding residential properties and would seriously injure the amenities of the area and of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Una O'Neill
Senior Planning Inspector

3rd August 2021