



An  
Bord  
Pleanála

## Inspector's Report ABP 310747-21

<b>Development</b>	Erect a new 18m monopole telecommunications support structure together with antennas, dishes and associated site works all enclosed in security fencing.
<b>Location</b>	Killerisk, Tralee, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	21/455
<b>Applicant</b>	Eircom Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party v. Refusal
<b>Appellants</b>	Eircom Ltd.
<b>Observers</b>	Fortfield Residents Association Peter Clifford
<b>Date of Site Inspection</b>	25 <sup>th</sup> October 2021
<b>Inspector</b>	Mary Kennelly

## **1.0 Site Location and Description**

- 1.1.1. The site is located on Killerisk Road, at Manor West on the south-eastern outskirts of Tralee town. Killerisk Road links Dan Spring Road at Ballymullen with Rathass and provides access to various residential estates as well as Manor Village Shopping Centre. It is situated on the northern side of the road opposite an Apple Green petrol station and local shops. There are residential developments immediately to the west and north-west (Castlewood Park) and to the east of the site (Castlelawn Drive), and on the southern side of Killerisk Road (Manor close and Killerisk Close). The site is part of an Eir compound which is sited at the entrance to Killerisk Business Park, with frontage to Killerisk Road.
- 1.1.2. The site area is given as 0.003ha. It is part of an existing Eir exchange compound which is accessed from the industrial access road. The compound is bounded to the south (Killerisk Road) and east (industrial access road) by a stone wall with palisade railings on top, and a grass verge along the outside of the wall. The western boundary is with the entrance and estate road to Castlewood Park, which is defined by a mature and dense landscaping strip along the boundary. The eastern side of the industrial access road is bounded by a tall coniferous hedge, which forms part of the landscaping to the estate road of Castlelawn Drive. The compound is approx. 40m wide and c.90m deep and appears to be used as a depot with several vans parked in the centre of the site. There are some outbuildings/sheds and a container or 'equipment cabin' located adjoining the western boundary. The site is set back from Killerisk Road by c.14m and is sited between the cabin and the outbuilding adjoining the western boundary.

## **2.0 Proposed Development**

- 2.1.1. The proposed development seeks permission to construct new 18 metre-high monopole on a concrete pad. The overall pad area measures 4.0m by 4.0m and would be set back from the main road and from the entrance to the compound and would directly adjoin the western boundary of the site/compound. It is proposed to demolish part of the outbuilding immediately to the north of the equipment cabin to accommodate the proposed monopole and associated equipment. It is proposed to accommodate Eir antennae and dishes as well as other operator antennae and the

proposed equipment cabinets would be sited next to the proposed mast. It would be sited adjacent to the existing Eir Telecoms unit with connectivity to the fibre network.

- 2.1.2. The planned occupant of the installation is Eircom Ltd. who is seeking to provide improved broadband and mobile phone coverage in the area. However, it is planned to make provisions for additional operators once permission is secured, in accordance with the policies on co-location. It is stated in the submissions made with the application that there is poor coverage in the area with just one other operator in the vicinity, a Vodafone mast c.1km to the north-east. The proposal seeks to facilitate an improvement in the service offered by both the applicants and other service providers in the Tralee area.
- 2.1.3. A series of photomontages have been provided to demonstrate the visual impact of the proposed development.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. The P.A. decided to refuse permission for two reasons as follows:
1. It is considered that the proposed development would constitute a highly obtrusive feature in the streetscape and broader area and would be seriously injurious to the visual amenities of the area. The proposal would set an undesirable precedent and be contrary to the proper planning and sustainable development of the area.
  2. It is considered that the proposal to construct an 18 metre high free-standing communications structure at this location, by reason of its height and proximity to residential development would seriously injure the amenities and depreciate the value of residential property in the vicinity. The proposed development would, therefore, contrary to the proper planning and sustainable development of the area.

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

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

It was stated that the site is zoned M4 Built Up area, which is located in an urban area with residential and commercial development in the vicinity. The Planner's report noted that there had been seven objections from third parties. It was considered that the proposed location within a residential area is not consistent with the Town Development Plan and national guidance. The proposed 18m high structure was considered to be excessively high within the streetscape and would be visually dominant within the surrounding residential area. It was considered to be seriously injurious to the visual and residential amenities of the area, particularly to the residents of Castlewood Park. It would also be likely to devalue properties in the vicinity.

A **refusal of permission** was recommended.

### **3.3. Other Technical Reports**

3.3.1. None received.

### **3.4. Prescribed Bodies**

3.4.1. None received.

### **3.5. Third Party Observations**

Submissions were received from seven observers. The main points raised may be summarised as follows: -

- The proposed development would be too close to residential properties and a childcare facility. It would result in health impacts and would devalue property.
- The proposal would be visually intrusive and out of character with the surrounding residential area.
- The proposal would be contrary to Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities.

## 4.0 Planning History

- 4.1.1. No relevant planning history.

## 5.0 Policy Context

### 5.1. National Planning Framework

The NPF generally supports improving local connectivity in terms of broadband and enabling infrastructure that affords communities opportunities to engage with the digital economy.

**NP Objective 24** seeks to support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who work and live in rural areas.

### 5.2. National Development Plan 2021

**NSO3 – Strengthening Rural Economies and Communities** – recognises the importance of rolling out the National Broadband Plan in providing consumers with access to high-speed broadband services which will promote balanced regional development. The NBP will enable citizens to benefit from advances in technology.

### 5.3. Telecommunications Antennae and Support Structures Guidelines for Planning Authorities 1996

These guidelines set out current national policy regarding telecommunications structures. Guidance is given in respect of matters such as site selection, minimising adverse impact, sharing and clustering of facilities and development management issues. The guidelines are supportive of the development and maintenance of a high-quality telecommunications network and service.

Section 4.3 relates to visual impact. In locations which are sited along major roads and tourist routes it is stated that where the mast is visible but does not terminate views, the impact may not be seriously detrimental. Furthermore, where views may

be intermittent and incidental, the mast may be visible or noticeable but may not intrude overly on the general view or prospect.

Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages, be located in residential areas or beside schools. In such cases, sites already developed for utilities should be considered and masts should be designed and adapted for the specific location and kept to a minimum height for effective operation.

#### **5.4. Telecommunications Antennae and Support Structures and DOECLG Circular Letter PL07/12**

This Circular letter provided updated guidance contained in the 1996 Guidelines, which had advised that planning authorities should indicate in their development plans any locations where, for various reasons, telecommunications installations would not be favoured or where special conditions would apply and had suggested that such locations might include lands whose high amenity value is already recognised in a development plan, protected structures, or sites besides schools. The Circular advised that whilst these policies may be reasonable, there has been a growing trend for the insertion of development plan policies which specify minimum distances from schools and houses, such as 1km. It is stated that such distances, without allowing for flexibility on a case-by-case basis, can make the identification of sites for new infrastructure very difficult. It is therefore advised that P.A.s do not include such separation distances as they can inadvertently have a major impact on the roll out of a viable and effective telecommunications network.

Section 2.6 of the Circular reiterates the advice contained in the 1996 guidelines in respect of Health and Safety aspects, that P.A.s should not include monitoring arrangements as part of planning permissions and that planning applications should not be determined on health grounds. Planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters relating to telecommunications infrastructure which is regulated by other codes. Conditions should not be attached limiting the life of the installation to a set period.

## 5.5. Kerry County Development Plan 2015-2021

### Chapter 7 – Transport and Infrastructure

**7.5 - Information and Communication Technology** – the stated ‘Aim’ is to support the sustainable delivery of high-capacity ITC 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. The importance of a modern efficient telecommunications system for the future development of the County cannot be overstated and constitutes a vital element of the County’s infrastructure (7.5.1). It is acknowledged that telecommunications masts are an essential element in providing communication network for the county and that the benefits must be balanced against the loss of amenities.

The existing communications infrastructure is recognised as being deficient and the county suffers an absence of carrier neutral and multi-carrier backhaul in most parts of the county. The Council therefore aims to support the sustainable provision of telecommunications infrastructure at appropriate locations. The following factors (outlined in the national guidance) will be taken into account

- Support the sustainable development of mast infrastructure at appropriate locations which facilitates backhaul in the peninsula areas, and broad band services to areas where there are none/poor quality service.
- Proposals for standalone telecommunications installations should demonstrate that the developer has made reasonable efforts to share with other existing users or proposed sites in the vicinity of the proposed mast.
- Standalone telecommunication installations will not generally be favoured in residential areas, on land where development may be restricted or prevented for amenity reasons, or in town centre areas which are architecturally important.
- Telecommunications antennae should be located so as to minimise any negative visual intrusion on the surrounding area, especially on landscapes or streetscapes of a sensitive nature. The preferred location for

telecommunication antennae is in industrial estates or areas zoned for industrial use or in areas already developed for utilities.

Relevant policy objectives include

**ICT-2** – Facilitate the sustainable development of a modern efficient telecommunications network serving the county.

**ICT-3** – Support the sustainable provision of new and innovative telecommunications infrastructure at appropriate locations, subject to normal proper planning considerations.

**ICT-4** – Locate telecommunications masts in non-scenic areas, or in areas where they are unlikely to intrude on the setting of national monuments, protected structures or designated sites.

**Chapter 13 – Development Management Standards** includes the following: -

**13.14 - Telecoms Masts Standards and Guidelines** – development must have regard to the following -

**Design** – great care to be taken to minimise damage through discreet siting and good design. Design should be simple, well finished and employ the latest technology to minimise size and visual impact.

**Obsolete structures** – should be removed.

**Sharing facilities and clustering** – sharing of masts will be sought to limit their visual impact. Details of efforts made to do so will be required to be submitted with a planning application. Where sharing is not possible, clustering will be encouraged.

## 5.6. **Tralee Town Development Plan 2009 – 2015 (as extended)**

### **3.3 Telecommunications**

The importance of the provision of an adequate telecommunications infrastructure is acknowledged in terms of facilitating the promotion of industrial and commercial development, as well as promoting the town as a major growth centre for economic development within the southwest region and nationally. Within this context, the planning authority supports the development of the communications services and facilities in the town.



**Metropolitan Area Networks** (MANs) is a broadband network improvement scheme which has been invested in by Kerry Co. Co. in order that the county is primed for investment and the development of a knowledge-based local economy.

The site is zoned as **‘Built-Up Area’ (M4)** – suitable for mixed uses. The policy for this area is to support the primary land use of the surrounding existing built-up area. Development that does not support or threatens the vitality or integrity of the primary use of these existing built-up areas shall not be permitted.

Relevant **Telecommunications objectives** include -

- TL-PO1** Promote and facilitate the provision of appropriate telecommunications infrastructure within the town at suitable locations, subject to environmental considerations and residential and visual amenity.
- TL-PO2** Promote the undergrounding of existing and all future telecommunications networks.
- TL-PO3** Continue the development of the broadband network in Tralee.

## 5.7. Natural Heritage Designations

Ballyseedy Wood SAC (002112) is located approx. 1.5km to east, Tralee Bay Complex SPA (004188) and Tralee Bay and Magharees Peninsula West to Cloghane SAC (002070) are located approx. 2.4km to the west, and Slieve Mish Mountains (002185) SAC is located approx. 2.85km to the south.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal has been received against the refusal of permission. The submission can be summarised as follows:

- **Justification for development** – Eircom is seeking a location to mobile and broadband cover in the Killerisk area as part of the rollout of its 3G and 4G network locally. The Killerisk area does not provide for adequate Deep Indoor High-Speed Mobile, Broadband or Voice services in this heavily built-up area.

The enclosed maps demonstrate that Killerisk is situated within an area with patchy coverage area for both 3G and 4G, which requires significant improvement. If permission is refused, Eircom Ltd. will lose essential coverage. The proposed development will enhance high speed broadband availability and connectivity for the residents and businesses of the surrounding area across all networks.

- **No Alternative location** – There is no existing suitable infrastructure in proximity to the site which would allow for co-location. All existing masts in the area were investigated and no suitable sites were found. The sector antennae used in providing the high-speed service proposed have a range of 500m per sector. Thus, the installation needs to be in a built-up area and have a search area of less than 500m. There are only two existing structures within a 500m radius. No other structures in the area would meet the mobile operators service provision obligations. Due to the nature of the land, it would not be possible to secure an alternative site that would comply with the CDP policies.
- **Site selection** – the subject site has been an established communication site for over 20 years. The proposed structure would be able to connect directly into the exchange building on the site using fibre cabling, which in turn will provide fast speed internet broadband and mobile connectivity to Eircom's network. The fibre connection allows for less equipment to be installed onto the structure, which allows for a smaller structure to be erected.
- **Sharing and clustering** – the applicant will share the structure with licensed operators in accordance with Eircom's policy of co-location. As the sole telecommunications structure in the area, the proposed development will allow multiple operators of both mobile and broadband to deliver its services to the end users in Killerisk.
- **Visual impact** – the proposed development fully respects the guidance in the DoEHLG Telecommunications Antennae and Support Structures Guidelines (1996) which favours monopole designs. A slimline monopole structure was selected which is of a design and scale that would not be out of character of be visually obtrusive or an incongruous element in a town such as this. It is not dissimilar to a lamppost or traffic light which are commonplace in villages

in Ireland. The height (18m) is required in order to achieve the necessary coverage and to facilitate co-location. While the proposed structure will be visible from certain views, these will be intermittent and incidental and will not injure the visual amenities of the area. A series of photomontages has been provided which show that there would be no significant visual impact.

- **Local context** – with more people wanting to work from home since the onset of the pandemic, it is of great importance that adequate broadband provision is available. Enhanced services are also required for programmes such as the Association for community and comprehensive schools which have introduced tablet programmes. It is disputed that the proposed structure would devalue properties in the area. Such masts are commonplace nowadays and their impact on property values is questionable.
- **Policy framework** – the guidance in the CDP is generally positive in respect of the development of ITC infrastructure within the county. It is acknowledged that it is a major factor in attracting investment in industry and employment to the area. The Council supports the delivery of high-capacity ITC infrastructure, broadband connectivity and digital broadcasting throughout the county. The National Broadband Plan reflects the Government's ambition to ensure that high-speed broadband is available to every community in Ireland. The importance of high-quality communication networks is also recognised in the National Spatial Strategy.
- **Precedent** – ABP ref. 308491 and 307962 – The Board has previously decided to grant permission for similar masts finding that there would be no significant impact on visual or residential amenities.

## 6.2. Observations on grounds of appeal

Two observations on the grounds of appeal have been received by the Board. The submissions were made by Fortfield Residents Committee and by Peter Clifford. The following points of note were made:

**Residential area** – The proposed 18m high mast is to be erected in the middle of a large residential area which includes 3 pre-schools. This is contrary to the Telecommunications Antennae and Support Structures Guidelines (1996) which

state that “only as a last resort should free-standing masts be erected in a residential area or beside schools.”

**Contrary to planning policy** – the proposed development would be in contravention of Kerry County Development Plan which states that “standalone telecommunications installations will not generally be favoured in residential areas”. The extent of the investigation of alternatives is questioned.

**Visual amenity** – the proposed structure would be an eyesore and visually intrusive on the surrounding area and out of character with the area.

**Proximity to Desmond Castle** – the proposed mast is less than 200m from the authentic ancient Desmond Castle (locally known as Ballymullen Castle) and would be seriously injurious to the visual effect on the Protected Structure (a medieval castle). Such structures should not be within 2km of a protected heritage structure.

**Health and safety** – It is not clear whether the mast has been designed in full compliance with the ICNIPR regulations. Electromagnetic radiation has been linked to a multitude of adverse health effects including depression, infertility, cancer, damage to DNA/Gene expression, oxidative stress, pregnancy complications, melatonin production, neurological disorders, immune dysfunction and Alzheimer’s.

**Contrary to human rights** – the proposal is in direct breach of the Nuremberg code of medical ethics. Rolling out 5G without safety testing is in direct breach of the Precautionary Principle as well as the Human Right to Informed Consent.

### 6.3. Planning Authority Response

The P.A. has responded to the grounds of appeal on 23<sup>rd</sup> July 2021. The points raised were as follows:

- The proposed monopole cannot be considered to be “not dissimilar in design of a lamp standard or traffic light pole” given its 18-metre height.
- Views of the structure would not be intermittent, and the photomontage views submitted indicate that the proposal would have a significant negative visual impact.
- The appeal refers to a village rather than Tralee town and to the Kerry CDP instead of the Tralee Town Development Plan.

## 7.0 Assessment

I consider that the issues arising can be assessed under the following headings:

- Compliance with planning policy
- Need for development
- Visual and residential amenity
- Health and safety
- Environmental Impact Assessment
- Appropriate Assessment

### 7.1. Compliance with planning policy for the area

- 7.1.1. The planning policy for the area which is relevant to the proposed development includes the importance of good quality broadband and telecommunications infrastructure to the economic welfare of the county. In addition, policies and guidance relating to the design and location of telecoms infrastructure is of significant relevance. The national Telecommunications Antennae and Support Structure Guidelines (1996) state that only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages or be located in residential areas or beside schools. The guidance goes on to say that where this cannot be avoided, sites already developed for utilities should be considered and masts should be designed and adapted for the specific location and kept to a minimum height for effective operation.
- 7.1.2. The appeal site is in the middle of a built-up area and is close to residential properties, including several housing estates, a school and other facilities. However, it is located within a site that has a long-established use as a utility site, although there are currently no existing masts present. The site is zoned Mixed-use which does not preclude infrastructural development or telecommunications structures, which are open for consideration. I also note that the site is not zoned NU (Networks/Public Facilities and Infrastructure) where the proposed development would be permitted.
- 7.1.3. On balance, I would accept, however, that the siting of the proposed development at this location is generally in compliance with the national guidance on the siting of

such structures, given the long-established use of the site, and would generally be acceptable subject to being appropriate in respect of the visual and residential amenities of the area, and provided that it would not contravene other planning policies for the area.

## **7.2. Need for development**

- 7.2.1. It is clear that the Tralee Town Development Plan and the Kerry County Development Plan, in line with national policy, seek to ensure that a very high-quality service in respect of the broadband and telecoms infrastructure in the county is achieved which will make a significant and important contribution to the economy of the county and to the quality of life of its citizens. In this respect, the existing network coverage for 3G and 4G are poor and patchy in and around Killerisk. The documentation submitted with the application and appeal, including the maps showing the lack of coverage within the area, clearly shows that there is a need for such a development to improve the services in the Killerisk area.
- 7.2.2. I would accept that the 18-metre height of the proposed monopole is probably necessary in order to improve the coverage to the required level and to enable the structure to be used for sharing equipment. It was explained that a 500m range was required to provide coverage to the areas with poor coverage shown on the submitted maps. The applicant has also stated that the existing support structures in the general area are not appropriate for clustering or sharing of equipment due to the nature and location of these structures. However, little information has been provided to support this statement. Two such structures were identified which are located to the north-east. It is assumed that the reasons for their lack of suitability is the distance, which exceeds the 500m from all properties with the range. It is further noted that there are several commercial, industrial or non-residential sites in the overall vicinity of the site, including the Killerisk Business Park, University Hospital Kerry, Manor Retail Park, Lidl supermarket etc. However, there is no indication as to whether these sites have been investigated as alternative locations.
- 7.2.3. Thus, it would appear from the information submitted with the application and appeal that there are no suitable existing masts which would be suitable for co-location in lieu of the proposed development, but the applicant has not demonstrated that alternative sites which might be further removed from residential areas have been

investigated. Notwithstanding this, it is noted that the subject site has been chosen due to its long-established use as a utility site and the existence of fibre cabling within the exchange building already on site. It is stated that the proposed structure would be able to connect directly to this cabling which will provide fast speed internet broadband and mobile connectivity to Eircom's network. It is further stated that the presence of the fibre cabling allows for less equipment to be installed onto the structure, therefore allowing for a smaller structure to be built and that a taller one would be required if it was to be erected elsewhere.

- 7.2.4. As such, on balance, it is considered that the provision of a new mast to serve the Killerisk area is justified at this location on the basis that it would allow for the utilisation of the existing fibre cable network within the site, which would minimise the amount of equipment required to improve the service. It is considered that the proposed development would be in accordance with the Development Plan objectives as it would provide for a significant improvement in the telecommunication and broadband services in the area, where the coverage is currently poor, which is of significant importance to the economy of the town and the county.

### **7.3. Visual and residential amenity**

- 7.3.1. The site of the appeal is located in the middle of a built-up area which is predominantly residential, although there are several commercial properties in the vicinity. There is a Centra and petrol station, together with several shops, on the opposite side of road. The site of the proposed mast is immediately adjacent to at least four houses in Castlewood Park and is within close proximity of other established housing estates including Castlilawn Drive, Killerisk Close and Manor Park. There are further established individual residential properties along the main road and there is a pre-school and other schools in the vicinity. The site is located on a main road which is heavily trafficked and forms part of the main road infrastructure serving the town and the wider area. The road has been used in the past as a defacto bypass route of the town, connecting the N86 with the R875 but the recent construction of the N70/N22 bypass to the south has reduced the traffic volumes on this road. However, it is still a strategically important road serving the wider area including Manor Village shopping centre and the hospital.

- 7.3.2. The streetscape is not very cohesive but is strongly residential in character, intermingled with commercial uses such as the petrol station. The existing utility site is not very prominent at present, despite its location on the main road and at the corner of the junction with the industrial estate road. This is largely due to the boundary treatment comprising a stone wall with railings above combined with the dense landscape planting along the western boundary and along the eastern boundary of the access road to the business park. It is also acknowledged that there are no buildings or structures of any scale or significance located within the compound, which has the appearance of a carpark or depot from the street.
- 7.3.3. The proposed 18m high monopole would certainly raise the profile of the site as it would introduce a very tall structure in a low-rise built-up area, where structures of such height and scale are not commonplace at present. It would be almost double the height of the existing ESB pole on the site. Although the proposed mast would be well set back from the main road, the fact that the site is visually exposed, is low-key and has an open character means that the structure and associated compound and equipment would become a dominant presence in the streetscape.
- 7.3.4. The proposed monopole would have a visual impact particularly when viewed from the west (Castlewood Park), the south (Killerisk Close and the main road) and from the east (Castlelawn Drive and the approach from Manor West shopping centre). It is considered that the most significant impacts will be from close range, such as Castlewood Park, as the built-up nature of the area means that views of the structure are mitigated by distance and the intervening established development. Further mitigation factors include the slimline monopole design of the structure and the established landscape screening to the immediate west and to the east of the site.
- 7.3.5. The submitted photomontages confirm that views from housing estates at the outer edge of the 250m radius are not very intrusive, although the structure would still be visible above the roofscape. However, the views from within the 100m radius indicate that the proposed monopole would be much more intrusive (Viewpoints 3, 4, 5, 6, 7, 8 and 9). It is considered that VPs 3, 4, 5, 6, 7 and 8 are the most sensitive as they are taken from residential estates or property boundaries, but VP9 is taken from outside the petrol station. It is considered that VPs 3 and 9 are situated alongside the main road which occupies much of the vista and the monopole would not terminate the views but would be intermittent and absorbed to some extent by



the varied nature of the streetscape. The views from Castlewood Park and Castlelawn Drive are much more sensitive and intimate as these are quiet residential streets, where the proposed monopole would appear as an alien and obtrusive feature. The distance and intervening built-up topography would moderate the views from VPs 5, 6 and 8. However, the views from VP4 and 7 would be much closer and the impact would be more severe. I would accept that the established landscape screening would moderate the impact on these viewpoints to some extent, particularly from VPs 4 and 7, but the trees would have limited screening benefits in respect of the 18m high mast from these locations. The concerns raised regarding the views from Ballymullen Castle (which is located close to VP2) would, in my opinion, be large screened by existing vegetation and topography and the proposed monopole would not be unduly intrusive from this location.

- 7.3.6. In conclusion, it is acknowledged that the proposed monopole would be visually intrusive at close range from a number of residential properties. This would result in adverse impacts on the visual and residential amenities of some properties close to the site and may also have a negative impact on property values. However, the visual impact on a limited number of residential properties must be balanced against the community wide and economic benefits for the town and county, as identified in the policy framework outlined above. I do not accept that the monopole would have a similar appearance to a traffic light pole or lamppost, but the presence of such infrastructure in built-up areas is becoming more commonplace and accepted as essential infrastructure. I would also accept that the siting of the monopole at this location is likely to contribute to the need for a smaller structure with less equipment due to the advantages of the proximity to the existing fibre cabling on the site. On balance, therefore, it is considered that the negative impact on the visual and residential amenities of some properties closest to the structure arising from the proposed development would not warrant a refusal of permission in this instance.

#### **7.4. Health and safety**

- 7.4.1. The applicant provided a letter of compliance with the International Radiation Protection Association (IRPA) Guidelines with the planning application. The Commission for Communications Regulations (ComReg) is the statutory body responsible for the regulation of radiation emissions. Compliance with emission limits is regulated nationally by the Commission and subject to a separate licence. As

such, health issues are not a matter for the Board in determining the application/appeal but are a matter for ComReg.

- 7.4.2. It is further noted that Circular PL07/12 specifically states that planning authorities should be primarily concerned with the appropriate location and design of telecommunication structures and do not have the competence for health and safety matters in respect of telecommunications infrastructure. The circular notes that these matters are regulated by other codes and such matters should not be regulated under the planning code. Thus, the installation and maintenance of the mast and its security is a matter for the applicant and its location in proximity to a road and footpath and to residential properties and schools does not raise any specific concerns in this regard.

#### **7.5. Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development within the development boundary of Tralee Town on serviced lands and on a site which is established as a utility use, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### **7.6. Appropriate Assessment**

- 7.6.1. Ballyseedy Wood (002112) SAC is located approx. 1.5km to east, Tralee Bay Complex SPA (004188) SPA and Tralee Bay and Magharees Peninsula West to Cloghane SAC (002070) are located approx. 2.4km to the west and Slieve Mish Mountains (002185) SAC is located approx. 2.85km to the south. There are no known hydrological links to the protected sites.
- 7.6.2. Given the scale, nature and extent of the development, the distances involved, the lack of a hydrological connection and that the site is located in an established urban area, on brownfield and serviced lands, it is considered that no appropriate assessment issues are likely to arise. It is considered that the proposed development would not be likely to have significant effects, individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

Having regard to the foregoing I recommend that permission for the above described development be **granted** for the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to:

- (a) National policy regarding the provision of mobile and telecommunications services,
- (b) The Telecommunications Antennae and Support Structures Guidelines for Planning Authorities, issued by the Department of the Environment and Local Government in July 1996, as updated by circular Letter PL07/12, issued by the Department of the environment, Community and Local Government on the 19<sup>th</sup> of October 2012,
- (c) The policy of the planning authority as set out in Tralee Town Plan (2009 as extended) and Kerry County Development Plan (2015), to support the provision of telecommunications infrastructure,
- (d) The location of the site within a Mixed Use (M4) zone and within a site used for utilities and the existing pattern of development in the area, and
- (e) The nature and scale of the proposed telecommunications support infrastructure,

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area and would not be contrary to the overall provisions of the current development plans for the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further

plans and particulars received by An Bord Pleanála on the 5<sup>th</sup> day of July 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Water supply and drainage arrangements for the site, including the attenuation and disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interests of public health.

3. The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with the application and, notwithstanding the provisions of the Planning and Development Regulations 2001 and any statutory provision amending or replacing them, shall not be altered without a prior grant of permission.

**Reason:** To clarify the nature and extent of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations.

4. Details of the proposed colour scheme for the telecommunications structure, ancillary structures and fencing shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interests of the visual amenities of the area.

5. The proposed cabinets at the base of the free-standing structure shall be acoustically insulated in order to minimise any potential noise nuisance to the

occupants of nearby residential units. Details of the insulated cabinets shall be submitted, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of orderly development and residential amenity.

6. Site development and building works shall be carried out only between the hours of 0800 and 1900 Monday to Friday inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or Public Holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including hours of working, noise management measures and off-site disposal of construction and demolition waste.

Reason: In the interests of public safety and residential amenity.

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**Mary Kennelly**  
**Senior Planning Inspector**

**30<sup>th</sup> January, 2022**