



An
Bord
Pleanála

Inspector's Report ABP-310977-21

Development	18m high mast, associated antennae, communications dishes, and ground equipment
Location	Eircom exchange, Kill Saint Anne South, Castlelyons, Fermoy, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	21/5268
Applicant(s)	Eircom Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Catherine Verling Joe Barry
Observer(s)	Cllr William O'Leary Oliver O'Flaherty Garrett Verling
Date of Site Inspection	22 nd September, 2021
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The 0.03 hectare site comprises an existing Eircom exchange which fronts onto a local road in a rural area north-west of the village of Castlelyons in County Cork. There is a single-storey, flat-roof structure on the site flanked by trees and hedgerow. Development in the vicinity includes a line of houses to the south-west and agricultural lands. There is dense hedgerow along both sides of the road frontage.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of an 18m high freestanding telecommunications mast and associated antennae, communication dishes and ground equipment. The development would form part of Eircom's telecommunications and broadband network.
- 2.2. Details submitted with the application included a cover letter, a Radio Emissions Statement, and photomontages.

3.0 Planning Authority Decision

3.1. Decision

By order dated 5th July 2021, Cork County Council decided to grant permission for the proposed development subject to 14 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted planning history in the environs of the site, development plan provisions and national policy and guidelines, reports received, and third party submissions. It was submitted that the applicant appears to be justified in principle in the selection of the site, having regard to the lack of alternatives available. It was considered that the proposal would not affect views from an Architectural Conservation Area (ACA) in the vicinity and would not have a serious negative impact on the character of the ACA. Reference was made to the

Telecommunications Guidelines and considerations on visual impact. It was noted that the Area Engineer did not raise road safety or traffic concerns. The submission of a Radio Emissions Statement was also noted. It was concluded that the proposal would not conflict with national or county policies relating to telecommunications and there was no objection in principle to the enhancement of telecommunications infrastructure in Castlelyons. It was further submitted that the visual impact would not seriously detract from the visual amenities of the wider area. A grant of permission was recommended subject to a schedule of conditions.

The Senior Executive Planner submitted that the visual impact of the proposal would be confined to the local area and would not detract to a significant degree from the amenities of the area. In addition, it was considered, having regard to the objectives in respect of supporting broadband and telecommunications, the proposal is acceptable. It was recommended that permission is granted subject to a schedule of conditions.

3.2.2. Other Technical Reports

The Area Engineer submitted the proposed mast would overshadow a neighbouring dwelling and he had no objection to the proposal subject to the attachment of a schedule of conditions.

The Environment Section had no objection to the proposal subject to the attachment of a schedule of conditions.

3.3. **Prescribed Bodies**

The Irish Aviation Authority submitted that it had no requirement for obstacle lighting on the telecommunications structure.

3.4. **Third Party Observations**

Objections to the proposal were received from Marcella McGrath, Mary Barry, Tommy Murphy, James Barry, Patrick and Caroline Verling, Hugh O'Neill, and Castlelyons Development raising concerns relating to impact on a walking route, architectural, landscape, ecological and visual impact, traffic impact, property value

impact, planning application deficiencies, the need for the mast, health and safety concerns, non-compliance with Telecommunications Guidelines

Further objections were received from Catherine Verling, Oliver O’Flaherty, Joe Barry, and Cllr William O’Leary. The grounds of the appeals and the observations reflect the principal planning concerns raised.

4.0 Planning History

I have no record of any planning application or appeal relating to the site.

5.0 Policy Context

5.1. Cork County Development Plan 2014

Digital Economy

Objectives include:

ED 7-1: Telecommunications Infrastructure

Support the provision of telecommunications infrastructure that improves Cork County’s international connectivity.

Facilitate the provision of telecommunications services at appropriate locations within the County having regard to the DoEHLG “Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities”.

Have regard to environmental and visual considerations when assessing largescale Telecommunications infrastructure.

ED 7-2: Information and Communication Technology

Facilitate the delivery of a high capacity ICT infrastructure and high speed broadband network and digital broadcasting throughout the County.

Support a programme of improved high speed broadband connectivity throughout the County and implement the National Broadband Strategy in conjunction with the Department of Communications, Marine & Natural Resources.

5.2. Fermoy Municipal District Local Area Plan

Castlelyons / Bridebridge

The site of the proposed development lies beyond (west of) the designated settlement boundary of Castelyons / Bridebridge.

The nearest land area within the village's development boundary lie to the east of the crossroads a short distance to the east of the site. The lands, comprising 19.65 hectares, are subject to a Specific Development Objective as follows:

X-01

In recognition of its location within an Architectural Conservation Area, it is an objective to protect and retain the unique demesne landscape associated with this area which includes four large country houses, Church of Ireland church and churchyard and other structures to the north of Castlelyons. This includes protection of the high boundary walls, parkland, mature trees and open spaces which contribute to the character of the village. This area has very limited capacity to accommodate development and any development proposals will need to be accompanied by an appraisal of the likely impacts of the development on the unique character of the area.

Section 4.4.32 of the Castlelyons Plan refers to the special policy area to which the above objective applies. It is also stated:

"The area comprises what is known local as the circular walk and is characterised by the high stone limestone garden walls on either side of the public road, mature trees, parkland and open spaces which contribute to the amenity and setting of the village."

5.3. EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2, Schedule 5 of the Planning and Development Regulations.

6.0 The Appeals

6.1. Grounds of Appeal from Catherine Verling

The grounds of appeal may be synthesised as follows:

- The Council failed to follow proper planning procedure and did not publish the planning reports within 5 working days on their website, making it more difficult to prepare an appeal.
- The application did not consider alternative sites. The applicant stated it was not possible to secure an alternative site in the area and the planning authority appears to have taken that statement at face value. There is an ESB facility a short distance away that has facilitated co-location and there is no evidence to suggest that this site or others were considered.
- The proximity to a dwelling and the impact thereon.
- The Planner's consideration of relevant planning history is queried.
- The mast location is close to a small crossroads with poor visibility on a road with an 80kph speed limit. The mast will create a driver distraction.
- There was no environmental assessment of the proposal. There was no review of the impact of the proposed mast on fauna and biodiversity. Objective ED 7-1 of the County Development Plan requires telecommunications infrastructure to have regard to environmental considerations.
- Condition 2 of the planning authority's decision requires landscaping on a limited site. It is possible this information has been provided and the Council has failed to publish it on its website.
- The proposed site is very close to, and will be clearly visible from, an Architectural Conservation Area (ACA) as designated in the Fermoy Local Area Plan. Reference is made to two previous decisions by the Board relating to an ACA and visual impact.
- The existing circular walk in this area is identified as a Special Policy Area. The proposal would be detrimental to the unique character of the area.

- The proposed development is located close to tourist accommodation in the area.

6.2. Grounds of Appeal from Joe Barry

The appellant resides at the dwelling to the west of the site. The grounds of the appeal may be synthesised as follows:

- The appellant's garage is used for home working is 4m from the proposed structure and his house is 10m from the proposed structure. The structure would seriously injure the amenities and depreciate the value of the property. Eight other houses in the area would have their amenity and value adversely effected.
- Reference is made to a number of planning decisions by the Board and the planning authority refusing permissions for telecommunications masts for reasons relating to impact on residential properties, injury to amenities and visual impact. It is submitted that the reasons given would equally apply to the current proposal.
- The applicant did not demonstrate how extensively alternative sites away from residential areas were investigated. There is at least one ESB facility in the area that would have been a more suitable location.
- The proposal would be highly visible from the nearby Architectural Conservation Area. The structure would be highly visible on the skyline from the parkland areas of the ACA.
- The increased volume of traffic that would be generated is a concern. The road is narrow and is close to a crossroads. The appellant has experience of traffic congestion generated by the existing utility. The proposal would increase the number of service vehicles, would constitute a traffic hazard and would increase risk of serious injury to other road users.

6.3. Applicant Response

The applicant's response to the appeal may be summarised as follows:

- The current nearest site for Eircom does not provide adequate service for good indoor high speed mobile broadband or Voice services in Castlelyons. Indoor coverage is patchy. A mobile base station would greatly support customers in the area.
- If permission is refused Eircom will lose essential coverage.
- Due to the nature of the land it would not be possible to secure an alternative site that satisfies the requirements of the County Development Plan.
- With tourism in the area, the proposal will be vital in providing essential telecommunications coverage.
- There are no existing telecommunication structures within 2km of the site that can accommodate any coverage needs. No existing commercial structures in the area can accommodate the required height and space for the proposed equipment. The site is the only viable commercial site within the search area and is an established installation for over 20 years. The 21m (*sic*) structure would be an upgrade to the installation and will be able to connect directly into the exchange building. The fibre connection allows for less equipment to be installed and for a smaller structure to be built and takes away the need for large equipment containers and security fencing. It would be consistent with the Telecommunications Guidelines.
- As the site has the potential to become a share facility, an 18m structure was selected, as is required in the Development Plan.
- A slimline monopole structure was selected to reduce visual impact. It would not be out of character, visually obtrusive or incongruous. No lower height to provide the required coverage and accommodate co-location.
- Views of the mast would be intermittent and would not be detrimental to the overall amenity of the area. This is consistent with the Telecommunications Guidelines. The applicant's photomontages show the proposal would not have a significant visual impact on the area.

- There is no evidence to substantiate the submission that local property values would be negatively affected. Property values have increased where access to basic strategic infrastructure is available.

6.4. **Planning Authority Response**

The planning authority submitted that all relevant issues were covered in the technical reports and it had no further comment to make.

6.5. **Observations**

Cllr William O’Leary objects to the proposal, stating it would have a detrimental effect on the residential property directly east of the proposed site.

Oliver O’Flaherty raised concerns relating to health concerns, the visual impact, unwanted microwave technology, the availability of FTTH and FTTC in the area, allowance of colocation at the site, traffic impact, the availability of an alternative location at an ESB substation site.

Garrett Verling raised concerns relating to the visual impact on the neighbouring house to the west, the business strategy relating to the development of masts on Eir sites, inadequate consideration of mast sharing in the area, the lack of need for more coverage in the area, property devaluation, and health impact.

7.0 **Assessment**

7.1. Introduction

- 7.1.1. I consider that the principal planning issues requiring consideration are the need for the proposed development, the development in the context of the Telecommunications Guidelines, the visual impact, traffic impact, impact on residential amenity and property values, environmental assessment, the planning authority procedures, and the applicant’s business strategy.

7.2. The Need for the Proposed Development

- 7.2.1. I note the applicant's submission to the planning authority on site coverage, the National Broadband Plan, and the National Spatial Strategy, which support the applicant's proposal to enhance telecommunications services in the Castlelyons area. I further note the provisions of Cork County Development Plan, namely Objectives ED 7-1 and ED 7-2, which again would support the proposed development. I am satisfied to conclude that the proposed development is well supported in local and national policy terms and its need has been justified.

7.3. The Development in the Context of the Telecommunications Guidelines

- 7.3.1. I note the *Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities* published in 1996 and Department Circular Letter PL 07/12 of October 2012. The Guidelines note that location for support structures, antennae and other dishes will be substantially influenced by radio engineering factors and that, in endeavouring to achieve a balance, a number of considerations are relevant. These include visual impact, access roads and poles, sharing and clustering, health and safety aspects, obsolete structures, and the duration of a planning permission.

- 7.3.2. The following is noted:

With regard to visual impact, it is referenced that only as a last resort should free-standing masts be located on or in the immediate surrounds of smaller towns or villages and that, if such a 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. It is further stated in the Guidelines: "*Only as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools.*" (Section 4.3)

- 7.3.3. Circular Letter: PL 07/12 made some revisions to the Guidelines. The Circular included the following:

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 in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not additionally be regulated by the planning process. (Section 2.6).

- 7.3.4. Having regard to the above, I first note the concerns raised by the appellants and observers in relation to health matters. This is an issue which Circular Letter: PL 07/12 clearly has steered planning authorities and the Board away from. Based upon this Circular, there can be no reasonable consideration given to this issue in this assessment. The Board is limited to considering the location and design of the proposed development, with due regard to the provisions made in the Guidelines to such matters, primarily in relation to the visual impact.
- 7.3.5. It is my observation that the proposed development is in a rural area outside of the village of Castlelyons. This is not a residential area. There is sporadic housing in the vicinity but it is an agricultural area. The site of the proposed development is not beside any schools. The site comprises an established Eircom exchange, i.e. this is a site already developed for utilities. The development seeks to enhance telecommunications infrastructure where there is existing telecoms infrastructure. In terms of the location for the mast and associated infrastructure, the siting of the proposed development presents as not being in conflict with the Telecommunications Guidelines.
- 7.3.6. Regarding the design of the proposed mast, I note that a monopole structure is proposed to which antennae would be attached. This monopole would be at a relatively restricted height of 18 metres, would be somewhat muted in colour, and its form would have a substantially less visual impact when compared to a lattice steel mast. I consider the design option to be a suitable choice to minimise visual impact in this rural area.
- 7.3.7. With regard to the issue of alternatives, I note the reference in the Guidelines that every effort should be made to share an existing mast and I further note the emphasis that is placed on sharing facilities and clustering. I acknowledge that the

applicant has submitted that the proposed mast itself could be used for sharing. I further note the applicant's submissions in relation to consideration of alternative sites. The first observation that needs to be made again in relation to this issue is that the site of the proposed development is an established Eircom exchange site, i.e. a site already developed for utilities. Adding infrastructure to this site would appear to be a reasonable first option in site selection terms as this established facility is in the control of the applicant and has an established telecommunications use. The appellants and observers had made reference to an alternative option at an ESB substation in the area. The applicant has submitted that there are no existing telecommunications structures within two kilometres of the site that can accommodate the applicant's coverage needs. I submit that there is clearly no definitive information provided from those opposed to the proposed development which demonstrates that there is a valid sustainable alternative option available to the applicant for co-location. I consider that the applicant's site selection can be viewed as reasonable based upon the existing facility and the proposed enhancement of the facility's functions. The site selection is consistent with the Telecommunications Guidelines.

7.4. Visual Impact

- 7.4.1. The site of the proposed development is in a rural area, adjoining a minor local road, in an area where there is extensive hedgerow growth in the vicinity, and where there is sporadic housing. The proposed development would be limited in height, at 18 metres high, and it would have a localised visual impact, with distinct views being available in close proximity to the mast along the minor local road network in the vicinity. It could not reasonably be seen as having any significant adverse impact on the wider rural area. It would have very limited impacts on the settlement of Castlelyons and would have no notable visual impact on the form, function or character of the Architectural Conservation Area which is within the village and which is distinctly separate from the site.
- 7.4.2. The significant local impact would result for the residents in the immediate vicinity of the site. However, I again note that this is not a designated residential area and I

further note that there is an established exchange facility at this site. The potential for further development of this established utility site must be understood when considering this localised impact for those choosing to reside in the immediate vicinity.

7.4.3. Regarding the impact on tourism and on the circular walking route, I note once again that the proposed development would have a very limited visual impact. There can be no reasonable determination that the proposed development would have any tangible impact on tourism in the Castlelyons area. The impact on that part of the circular walk that is outside of the village of Castlelyons would be relatively minimal, with views being intermittent and limited over a short section of this walking route and relating to the vicinity of the site.

7.4.4. I do not consider that the proposed development would have a significant adverse visual impact on the area.

7.5. Traffic Impact

7.5.1. The site of the proposed development constitutes an established exchange facility along a minor local road that is lightly trafficked. It provides a layby at its frontage to enable a van or car to pull in. The maintenance and servicing of a structure such as that proposed generates very little traffic when the structure and equipment is functioning. The road network and parking arrangements are adequate to accommodate a development of this nature. There can be no reasonable concerns about any traffic hazard arising from this development.

7.6. Impact on Residential Amenity and Property Values

7.6.1. I acknowledge the proximity of the proposed mast to the appellant Joe Barry's house. This is a long-established Eircom exchange site and houses have been developed in the vicinity during, and in the knowledge of, its existence. While I note that the base and lower sections of the structure would be well screened by the garage on the appellant's property and by established hedgerow, I accept that the

proposed mast would have a substantial impact on the neighbouring residential property due to the visibility of the upper sections of the mast, its location close to the road, and its scale relative to that property. Having regard to the layout, location, orientation, existing structures and established hedgerow, I submit that the proposed mast would have a negligible impact on the neighbouring property by way of overshadowing.

- 7.6.2. With regard to impact on property value, I note once again that the site is an established exchange facility and that it would be reasonable to determine that there would be an understanding that the potential for further development of telecommunications infrastructure by the operator existed at this location. I accept that if one was to consider the value of the appellant's house with or without a neighbouring mast structure then one could reasonably conclude that the property would be more valued without such a structure beside the house. This difference in value has not been, and is not, quantifiable in this instance. While I accept the applicant's submission that the improved telecommunications infrastructure can improve property values, I do not accept that the physical impact of the proposed mast could reasonably be seen to enhance the value of the neighbouring property.
- 7.6.3. In conclusion, I accept that the site of the proposed development is a long-established utility site. I am of the opinion that, to stymie its further development for telecommunications purposes due to the choice made by the appellant to locate a house beside such a known utility, is not reasonable.

7.7. Environmental Assessment

- 7.7.1. The appellant Catherine Verling raises concerns about this issue in the context of biodiversity primarily. The site of the proposed development is an established Eircom exchange facility. It is not on, in or near any area of designated conservation value. It is located within a rural area where the dominant land use is agriculture. The land in this area is farmed and primarily comprises grassland enclosed by hedgerow. The proposed development would have no known adverse impact on the ecology of this location.

7.8. Planning Authority Procedures

- 7.8.1. I note the appellant Catherine Verling's concerns relating to the planning authority's failure to publish planning reports within 5 working days on their website, which made it more difficult to prepare an appeal. I acknowledge this is a procedural matter for the planning authority. I further note that the appellant made a detailed submission to the planning authority during its deliberations on the application and provided a comprehensive appeal submission to the Board.

7.9. The Applicant's Business Strategy

I note the Observer Garrett Verling's submission on the applicant's business strategy in developing sites such as that at Castlelyons. I submit that the Board is in no position to authenticate the observer submission on this matter or to adjudicate on such an issue.

Appropriate Assessment

The site of the proposed development is an established eircom exchange site. It is several kilometres north of the nearest European site which is the Blackwater River (Cork/Waterford) SAC. Having regard to the nature, scale, and the location of the proposed development within an established telecommunications site, the nature of the receiving environment, and the separation distance to the nearest European sites, it is concluded that no appropriate assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on any European site.

8.0 **Recommendation**

I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

9.0 Reasons and Considerations

9.1. Having regard to:

- (a) the “Telecommunications Antennae and Support Structures Guidelines for Planning Authorities”, issued by the Department of the Environment and Local Government in 1996;
- (b) “Circular Letter: PL 07/12 Telecommunications Antennae and Support Structures Guidelines”, issued by the Department of Environment, Community and Local Government in October 2012;
- (c) the objectives of Cork County Development Plan 2014;
- (d) the siting of the proposed development within a site already developed for utilities; and
- (e) nature and scale the proposed mast and associated infrastructure,

it is considered that the proposed development, subject to compliance with the conditions set out below, would assist in the achievement of the objectives set out in national policy and Cork County Development Plan. Furthermore, it is considered that the proposed development would not seriously injure the visual or residential amenities of the area and 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, 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. The proposed mast and all associated antennae, equipment and fencing shall be demolished and removed from site when no longer required. The site shall be reinstated to its predevelopment condition on the removal of the telecommunications structure and ancillary structures at the expense of the developer.

Reason: In the interest of orderly development.

3. The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with this 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 planning 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. The proposed cabinet at the base of the mast shall be acoustically insulated. Details of the insulated cabinet shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of residential amenity.

5. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

Reason: In the interest of public health.

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

Reason: In the interest of the visual amenities of the area.

7. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage of the site without a prior grant of planning permission.

Reason: In the interest of the visual amenities of the area.

8. Landscaping of the site shall be carried out in accordance with a landscaping scheme, which shall be submitted to and agreed in writing with planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

9. 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 the commencement of development. The plan shall provide details of the intended construction practices, including hours of working, noise management measures, site specific measures for handling surface water, and traffic management measures.

Reason: in the interest of public safety and residential amenity.

Kevin Moore
Senior Planning Inspector

29th September, 2021