



An
Bord
Pleanála

Inspector's Report ABP-313175-22

Development	To erect a 24m high monopole telecommunications support structure together with antenna, dishes and associated telecommunications equipment, all enclosed in security fencing.
Location	Castleisland Co-Op Mart, Tonbwee and Knockananlig, Castleisland, Co. Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	21/1263
Applicant(s)	Vantage Towers Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Seamus Moynihan.
Observer(s)	None.
Date of Site Inspection	23/06/2022.
Inspector	Auriol Considine

1.0 Site Location and Description

- 1.1. The proposed development site is located to the southeast of the main street in the town of Castleisland Co. Kerry. The site lies within the mart complex and to the south of an existing industrial / commercial building and associated car parking, all approximately 250m to the south of Main Street, Castleisland. The primary livestock mart buildings lie to the west of the subject site. To the east of the mart complex, there are two sports facilities comprising Castleisland Rugby Club and its associated pitch as well as An Ríocht Athletics Club which includes a 400m athletics track with soccer pitch and a gym with spa facilities. To the south of the track and building, there is a parkland which is accessible to the public and includes a walk along the River Maine.
- 1.2. To the south of the mart complex, lies the Muire Gan Smal Presentation Primary School with associated buildings and outdoor playgrounds, approximately 120m from the proposed development site. The Castleisland Day Care Centre fronts onto Old Chapel Lane approximately 150m to the west.
- 1.3. The site has a stated area of 0.0064ha and lies within the Mart complex, adjacent to the internal roads.

2.0 Proposed Development

- 2.1. Permission is sought to erect a 24m high monopole telecommunications support structure together with antenna, dishes and associated telecommunications equipment, all enclosed in security fencing Castleisland Co-Op Mart, Tonbwee and Knockananlig, Castleisland, Co. Kerry.
- 2.2. The application includes the relevant plans and particulars, as well as a cover letter which addressed the requirements for the proposed mast as well as addressed the planning provisions for such a development. Appendix 1 of the cover letter includes a technical justification for the structure. The proposed development will include the 24m high support structure to hold equipment for 3 operators to include 3no. 5G Active Antennas, 6 no. RRUS per panel antenna, 3 no. 0.3m dishes and 4 no. 0.6m dishes. Two cabinets are proposed at ground level.

- 2.3. Following the submission of the response to the further information request, the applicant clarified that the other sites in the area were considered but discounted due to location or height, and it is submitted that there is no existing structure suitable for site sharing in Castleisland that would help Vodafone provide coverage to those areas of the town currently served by poor Vodafone coverage. It is submitted that the proposed infrastructure is required in order to achieve maximum coverage improvement in Castleisland and the subject site is the only suitable option.
- 2.4. It is further noted that the development does not form part of a Community Broadband Scheme, but does form part of the National Broadband Scheme, designed to ameliorate the social, commercial and educational well-being of Castleisland and its residents.
- 2.5. The response concludes that the proposed development meets the criteria of the County Development Plan, will have minimal visual impact on its surroundings and will be readily absorbed into the landscape. Its purpose-built nature and suitability for site sharing will mitigate against the need for additional structures and will serve the current and future communication requirements of Castleisland.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission for the proposed development subject to 4 standard conditions.

3.2. Planning Authority Reports

3.2.1. Initial Planning Report:

The initial planning Report considered the proposed development in terms of the information submitted, planning history, development plan provisions and third-party submissions. The report also included sections on AA and EIA. The initial report considers that the principle of the proposed development is acceptable but required further information with regard to the following two questions:

- Use of alternative structures.

- Confirmation whether the development would form part of the National Broadband Scheme or would be supportive of the Community Broadband Scheme.

3.2.2. Following the submission of the response to FI, the final planning officers report notes that the issues raised were satisfactorily addressed and no other issues arise. the report recommends that permission be granted subject to 4 conditions. This recommendation formed the basis for the Planning Authority's decision to grant permission for the proposed development.

3.3. **Other Technical Reports**

None.

3.4. **Prescribed Bodies**

None.

3.5. **Third Party Observations**

3.5.1. Two third party objections to the proposed development are noted on the PA file from the adjacent primary school and the Day Care Centre. The issues raised are summarised as follows:

Primary School:

- The application fails to mention the proximity of the site to the school at approximately 120m.
- Biological and health concerns for vulnerable people including those using the Day Care Centre.
- Height of the tower will have a visual impact.
- Impact of telecommunications tower on wildlife, in particular bats, birds and bees.
- No consultation.

Day Care Centre:

- The Day Care Centre is managed by a voluntary Board of Directors who oversee the provision of services for elderly adults.
- The HSE also operates an outpatient physiotherapy and community occupational therapy, as well as a mental health day services from the premises. A dressing clinic also operates since the beginning of the pandemic.
- Concerns noted in terms of the proximity of the development particularly in relation to the health and wellbeing of the service users and outpatients who attend the services.
- The location of the mast is inappropriate and not in keeping with proper planning and development.
- The users of the Day Care Centre deserve to be able to attend the centre or medical appointments without being subjected to any risks which may compromise their already compromised health.

4.0 Planning History

4.1.1. There is no relevant planning history pertaining to this form of development at the Mart site.

4.1.2. The following planning history is associated with the wider mart site.

PA ref: 93/1030: Permission granted to retain office/canteen building as constructed and to extend same.

PA ref: 00/3514: Permission granted to construct commercial units using existing entrances.

PA ref: 02/2764: Permission refused to construct an advance factory building.

PA ref: 03/593: Permission granted to construct an advance factory building and associated site development works including an access road. Permission also to retain site preparation works already completed.

PA ref: 12/149: Permission granted to retain existing building and surrounding external works where constructed, within revised site boundaries, to retain the use of part of the building for refurbishment of furniture and its assembly and display, for

use of a multipurpose space for youth activities and for offices, meeting rooms and training rooms, instead of its use for light industry. Permission to carry out alterations and extensions to the building and to alter the external layout and increase the number of car parking spaces.

5.0 Policy Context

5.1. National Policy & Guidelines

5.1.1. National Development Plan 2018 – 2027 (NDP)

The NDP states that

“A fundamental underlying objective of the NDP is, therefore, to focus on continued investment to yield a public infrastructure that facilitates priorities such as high-speed broadband and public transport in better cities and better communities.”

5.1.2. Telecommunications Antenna and Support Structures – Guidelines for Planning Authorities 1996 & Circular Letter PL07/12:

This document provides guidance for the assessment of telecommunication structures and were substantially updated by the DoEHLG Circular Letter PL07/12. Of note, the 2012 Circular provided that:

- Health grounds should no longer be considered.
- Development contributions for broadband infrastructure should be waived.
- The request for bonds should be replaced with an appropriate condition requiring the removal of the mast
- Conditions restricting the life of the permission should not be included
- Separation distances between masts and houses or schools should not be included in development plans.

5.2. Development Plan

- 5.2.1. The Kerry County Development Plan 2015 is the relevant policy document pertaining to this appeal.
- 5.2.2. Chapter 7 of the Plan deals with Transport & Infrastructure, with Section 7.5 dealing with Information and Communication Technology, including telecommunications infrastructure. The key aim of the Plan is to support the sustainable delivery of high-capacity ICT 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.
- 5.2.3. The following policies are considered relevant in this instance:
- Policy ICT-1: Support and facilitate the sustainable delivery of ICT infrastructure, broadband networks and digital broadcasting in the County.
 - Policy ICT-2: Facilitate the sustainable development of a modern efficient telecommunications network serving the County.
 - Policy ICT-3: Support the sustainable provision of new and innovative telecommunications infrastructure at appropriate locations, subject to normal proper planning considerations.
 - Policy ICT-4: Locate telecommunication masts in non-scenic areas, or in areas where they are unlikely to intrude on the setting of, or views of/from, national monuments or protected structures or have an adverse effect on the environment including the integrity of Natura 2000 sites.
- 5.2.4. In addition to the above, Chapter 13 of the Plan deals with Development Management – Standards and Guidelines with Section 13.14 relating to Telecommunication Masts.
- 5.2.5. The site is also covered by the Killarney Municipal District Local Area Plan 2018, which includes Castleisland, where it is identified as a regional town, and of strategic importance as a major centre in the MD region. The site is located on lands zoned M4 Built Up Area.
- 5.2.6. The land to the immediate south of the proposed mast location, adjacent to the mart and An Riocht is zoned as an Opportunity Site 2. It is the stated aim of the MD LAP

‘to sustainably develop this large landmark riverfront brownfield site as a new mixed use urban streetscape providing new tourist facilities in close proximity to the riverfront and town centre’. The LAP further provides that ‘there is an opportunity to redevelop this site with new structures incorporating a hotel and other tourism related uses centred on a civic/ amenity space along the river. This site has the potential to be a focal point of the town’.

5.3. Natural Heritage Designations

The subject site is not located within any designated site. The closest Natura 2000 site lies approximately 3.5km to the east being the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA, Site Code 004161.

5.4. EIA Screening

- 5.4.1. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that mandatory EIA is required.

The subject appeal does not relate to a class of development which requires mandatory EIA. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.

- 5.4.2. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

- 5.4.3. Having regard to:

(a) the nature and scale of the development, and

- (b) the location of the development outside of any sensitive location specified in article 109(4)(a)(v)(III) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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.

6.0 The Appeal

6.1. This is a Third-Party appeal, submitted by Mr. Seamus Moynihan, Principal Muire Gan Smal PS, against the decision of the PA to grant planning permission for the development. The grounds of appeal are summarised as follows:

- The tower is right beside the school with 170 pupils and staff.
- There are serious concerns about it emitting harmful radiation.
- The development will seriously impinge in the landscape of the school.
- Concern about the overbearing height of the tower on pupils in the preschool and primary school.
- There was no consultation about the project and no reference to the school was made on the site location map. The school is 120m from the proposed structure.
- Concern raised about future additions to the tower. It is requested that planning would be needed for any future additions.

6.2. First Party Response to Third Party Appeal

6.2.1. The applicant has responded to the third-party appeal. The response sets out the justification for the proposed structure and notes that the Planning Authority raised no issues regarding visual impact or injury to the amenities of the area. The response to the appeal is summarised as follows:

- Proximity of the site to the school/health centre

- With regard to the proximity of the site to the school/health centre, it is submitted that Vantage Towers has stringent health and safety policies and codes for maintenance crews and the public.
- Health concerns are separate to planning matters and should not be taken into consideration when making decisions with regard to TE masts.
- The school is located approximately 120m from the application site, with the road between the school and the site. The site is not 'right beside the school' as suggested.
- The site is suitably located and complies with the CDP.
- Visual Impact
 - The design of the proposed development is in accordance with the 1996 Guidelines for town centres.
 - The location of the site is in an area where there are a number of tall lighting structures, telegraph poles and commercial buildings and warehouses.
 - The development will not have an adverse impact on the landscape of the school.
 - No issue of visual impact was raised in either PA report.
- Lack of Consultation
 - Lack of pre-planning consultation is not a planning matter and there is no precedence for this to be used as a reason for refusal.
 - The school was shown on the 1:2500 scale map included with the application and not labelling it was unintentional.
- Future Additions to the Structure
 - The structure is designed to accommodate other operators in accordance with the guidelines.
 - The applicant will accept any condition attached to the grant of planning permission that requires a prior grant of permission for additional equipment.

It is requested that permission be granted.

6.3. Planning Authority Response

None.

6.4. Observations

None.

7.0 Assessment

7.1. Having regard to the nature of the proposed development, together with the information presented in support of the proposed development, I consider it appropriate to assess the proposal under the following headings:

- Principle of the proposed development & Justification
- Third Party Appeal
- Appropriate Assessment

7.2. Principle of the proposed development & compliance with policies.

- 7.2.1. The proposed development seeks to erect a 24m high monopole telecommunications support structure together with antenna, dishes and associated telecommunications equipment, all enclosed in security fencing Castleisland Co-Op Mart, Tonbwee and Knockananlig, Castleisland, Co. Kerry. The proposed development will include the 24m high support structure to hold equipment for operators, to include 3no. 5G Active Antennas, 6 no. RRUS per panel antenna, 3 no. 0.3m dishes and 4 no. 0.6m dishes. Two cabinets are proposed at ground level.
- 7.2.2. The site is located within the settlement boundaries of the town of Castleisland, on lands zoned M4 Built Up Area, and within the grounds of the Mart. The site lies approximately 250m from Main Street and I would note no residential properties in the immediate vicinity of the site. The site lies towards the south-eastern area of Mart site, and adjacent uses comprise primarily sports and recreational. There is a primary school approximately 120m to the south of the site and a Day Care Centre

approximately 150m to the west. The Mart buildings are located between the subject site and these two uses.

7.2.3. The Kerry County Development Plan 2015 is the relevant policy document pertaining to this appeal. Chapter 7 of the Plan deals with Transport & Infrastructure, with Section 7.5 dealing with Information and Communication Technology, including telecommunications infrastructure. The key aim of the Plan is to support the sustainable delivery of high-capacity ICT 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 site is also covered by the Killarney Municipal District Local Area Plan 2018, which includes Castleisland, where it is identified as a regional town, and of strategic importance as a major centre in the MD region. The site is located on lands zoned M4 Built Up Area.

7.2.4. The following CDP policies are considered relevant in this case:

- Policy ICT-1: Support and facilitate the sustainable delivery of ICT infrastructure, broadband networks and digital broadcasting in the County.
- Policy ICT-2: Facilitate the sustainable development of a modern efficient telecommunications network serving the County.
- Policy ICT-3: Support the sustainable provision of new and innovative telecommunications infrastructure at appropriate locations, subject to normal proper planning considerations.
- Policy ICT-4: Locate telecommunication masts in non-scenic areas, or in areas where they are unlikely to intrude on the setting of, or views of/from, national monuments or protected structures or have an adverse effect on the environment including the integrity of Natura 2000 sites.

In this regard, I consider that the proposed development accords with the stated policy requirements of the County Development Plan. I am further satisfied that the principle of the development is acceptable in terms of the location of the site outside of a residential area and within an established commercial / light industrial area.

7.2.5. I would note that the Telecommunication Guidelines, at Section 4 deal with development control matters and section 4.2 deals with design and siting and section

4.3 dealing with visual impact. The guidelines indicate a preference for monopoles and as such, I am satisfied, given the design of the proposed mast, that the proposed development is acceptable at this location in principle.

7.2.6. In terms of the principle of co-location, the Board will note that the applicant submitted an assessment of the relevant existing masts in the wider area and following a request for further information, provided reasoning for discounting the relevant ones for the purposes of their needs. The reasons for discounting the existing structures are identified as follows:

- **The Old Garda Station:** Vodafone and Three Ireland currently transmit from the 27m lattice at this location. As the emergency services operate from the structure, it cannot offer the height that is required for effective coverage.
- **Main Street:** Vodafone operate on an 11m rooftop at this location. The rooftop is too low to provide adequate coverage. This site will be decommissioned if the current proposed mast is permitted.
- **Harnetts Bar:** Eir transmit from a 10m rooftop at this location. The rooftop is too low to provide adequate coverage. This building does not have capacity for technical upgrades.
- **Crinny, Castleisland:** This site comprises a 30m Vodafone tower which was designed to cover a section of the N21. The site is located 5.4km from the site and is too far from the target area to provide adequate coverage.

7.2.7. The National Broadband Plan, 2012 Department of Communication, Energy and Natural Resources (DCENR), seeks to change the broadband landscape in Ireland through a combination of commercial and State led investment, and the purpose of the Report of the Mobile Phone and Broadband Taskforce is to deliver the Plan in the shortest time possible time. In terms of the proposed development, I am satisfied that the applicant has presented a reasonable justification for the proposed infrastructure.

7.2.8. Overall, and having regard to all of the information available, together with the context of the site and the existing use associated with it, I am satisfied that the visual impacts associated with the proposed development are acceptable and that the development as proposed, seeks to progress national policy to secure the

implementation of the National Broadband Plan and seek to ensure that fast and effective broadband facilities are available in all parts of the county. In this regard, I consider that the proposed development is acceptable.

7.3. Third Party Appeal

7.3.1. The Board will note that the third-party has raised a number of issues in relation to the proposed development as follows:

- Location of the tower

7.3.2. In terms of the proximity of the tower to the school, I would note that there is approximately 120m of a separation distance. In addition, I would acknowledge that there are existing mart buildings which lie between the school and the proposed mast site. Given the context of the site within the wider Mart site, I am satisfied that the proposed location of the tower can be considered acceptable and appropriate.

7.3.3. While I acknowledge the submission of the third-party as it relates to concerns regarding emissions, such matters are not for the Board to consider in the assessment of this appeal.

- Visual Impact

7.3.4. In terms of the potential visual impacts associated with the mast development, I am generally satisfied that there will be no significant effects arising. Given the location of the existing buildings between the school and the site, together with the overall design and scale of the mast proposed, and the context of the site in terms of the adjacent sports facilities which include flood lighting etc, I am generally satisfied that there will be no overbearing impacts on the school site.

- Lack of consultation

7.3.5. I would note that pre-planning consultation is not a prerequisite for the lodging of a planning application.

7.3.6. In terms of the identifying of the school on the planning maps, I am satisfied that the plans and particulars as submitted accord with the provisions of Article 22 of the Planning and Development Regulations 2001 as amended.

- Future Additions

7.3.7. The third party has requested that any further additions to the tower be required to seek planning permission. I consider this to be reasonable.

7.3.8. Overall, I am satisfied that the proposed development can be considered an appropriate form of development at the site proposed.

7.4. Appropriate Assessment

7.4.1. The subject site is not located within any designated site. The closest Natura 2000 site lies approximately 3.5km to the east being the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA, Site Code 004161.

7.4.2. Having regard to the nature and scale of the proposed development, I am satisfied that 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 projects on a European site.

8.0 Recommendation

8.1. It is recommended that the proposed development be granted for the following stated reasons and considerations and subject to the stated conditions.

9.0 Reasons and Considerations

Having regard to the following matters:

- (a) the provisions of the Kerry County Development Plan 2015,
- (b) the provisions of the Killarney Municipal District Local Area Plan 2018-2024,
- (c) 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,
- (d) Circular Letter PL/07/12, issued by the Department of the Environment, Community and Local Government in October 2012,
- (e) Circular Letter PL/01/2018, issued by the Department of the Environment, Community and Local Government in February 2018,

- (f) the location of the proposed development site within the Castleisland Co-Operative Livestock Mart grounds,
- (g) the nature and scale of the proposed development,
- (h) the submissions and observations received, and
- (i) the planning officer reports and decision of the planning authority,

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of the visual amenity of the area, would not seriously injure the amenities of adjoining properties or the wider area and would be acceptable in terms of roads and traffic. 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, and further information submitted on the 8th February 2022, 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 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.

3. A low intensity fixed red obstacle light shall be fitted as close to the top of the mast as practicable and shall be visible from all angles in azimuth. Details of this light, its location and period of operation shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public safety.

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 commencement of development.

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

5. 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.

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

Reason: In the interest of public health and to prevent flooding.

A. Considine

Planning Inspector

4th July, 2022