



An
Bord
Pleanála

Inspector's Report

ABP314250-22

Development	Construction of a 21 metre high monopole support structure with ancillary equipment and site works.
Location	Eir Exchange, O'Connell's Avenue/Convent Street, Listowel, Co. Kerry
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	22514
Applicant(s)	Eircom Ltd.
Type of Application	Permission.
Planning Authority Decision	Refusal
Type of Appeal	First Party -v- Refusal.
Appellant(s)	Eircom Ltd
Date of Site Inspection	22 nd March 2023.
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1.** The proposed telecommunications site relates to a small rectangular portion (10m x 12m at max. lengths) of a much larger site that is prominently located within the built-up urban environs of Listowel town.
- 1.2.** The overall site as outlined in blue is a utilities site on the western side of O'Connell's Avenue - a predominantly residential road and extends up to the junction with Convent Street. It is part of a pocket of industrial/brownfield land in an area otherwise predominantly characterised by medium density low rise housing.
- 1.3.** There is a former telephone exchange building on this site and the building is stepped in height with flat roofs ranging in height from two to three storeys to a maximum height of c.11m. The higher level is set back from the road with the intervening two-storey block. Telecommunications equipment is mounted on the upper level and extends above the highest parapet height and is visible from Convent Street to the south.
- 1.4.** The site is slightly elevated relative to Convent street where there is a pair of dwellings (cottages) backing onto the southern side of the site. The submitted drawings (site layout or site locations maps) do not show a large extension to the side of no.36 - a guest house which extends to the side and rear of the house site close to the subject site.
- 1.5.** The overall site is adjoined by a dormer dwelling to the north in addition to low rise industrial/engineering premises . There is some undeveloped ground to the west .
- 1.6.** The overall exchange building site road frontage consists of a low concrete wall and the curtilage is hard surfaced with weeds breaking through. The remaining site boundary is marked by concrete post and wire fencing and higher concrete walls. . Palisade fencing encloses part of the site within the curtilage and this is visible from O'Connell's Avenue. The site has both vehicular and pedestrian accesses along the O'Connell's Avenue frontage.
- 1.7.** The development site is approximately forward the palisade fencing and alongside the post and wire boundary with a dwelling to the south - 'Racecourse View.'

2.0 Proposed Development

- 2.1.** Planning permission is sought by Eircom Ltd. to erect a 21m high monopole telecommunications structure with antennae dishes and associated ground equipment/ cabinets on the southern side of the exchange building site within a proposed compound of c. 10mx 12m enclosed by fencing with pedestrian access.
- 2.2.** The cover letter submitted with the application explains rationale for the proposal. The ComReg map shows an imbalance in service within the town. The proposed infrastructure will improve indoor coverage in the immediate environs which includes a school, a hospital and a healthcare centre in addition to substantial residential development where customer demand is stated as not being met. It is further explained how the design has taken on board a previous reason for refusal for a lattice mast structure. The proposal now minimises visual impact despite the absence of evidence of loss of value to properties.

3.0 Planning Authority's Decision

3.1. Decision

- 3.1.1.** Refusal of permission based on:
- material contravention of Listowel Town Plan Objective (BHUD19, BHUD23 and BHUD25)regarding impacts in townscape,
 - unduly obtrusive impact on landscape contrary to objective BH3, and
 - impact on residential amenity. .

3.2. Planning Report

- 3.2.1.** The planner's report describes the site location and description and the proposed development and then details the provisions of:
- The Listowel Town development plan in respect of the
 - M4 -mixed use zoning,
 - chapter 13 telecommunications and infrastructure and objective TPWDF RM 2 promoting such subject to environmental , residential and amenity considerations,
 - Built heritage (section 9.2) and landscape management.

- The Kerry CDP 2009-2015.
- National Guidelines.
- Objections from local residents regarding impacts on homes.

3.2.2. In appraising the development, the report refers to the absence of justification noting the existing structure near the Garda Station and the absence of photomontages having regard to the proximity to residential development and an ACA. In the context of the CDP and national policy a decision to refuse permission was made. In its consideration no EIA or AA issue arose.

3.3. Other reports

County Archaeologist: No issues arising

Biodiversity Officer: No impact on European sites

Roads Department: No objection subject to conditions relating to works.

3.4. Prescribed Bodies

Irish Water: No objections subject to conditions.

An Taisce: No submission

4.0 Planning History

4.1. PA ref. 20618 refers to refusal of permission for a 20m high lattice telecommunication support structure.

5.0 Policy Context

5.1. National Planning Framework

- NPO 24 refers to supporting and strengthening infrastructure for rural economies.
- NPO 48 refers to developing a stable, innovative and secure digital communications and services infrastructure.

5.2. Development Plan including the Listowel Town Plan

5.2.1. The current plan governing the site is the Kerry County Development Plan 2022-2023. The Listowel Town Development Plan is contained in Volume 2. In this plan

the site remains zoned as M4 (mixed use) and is surrounded by Residential zoning as was the case in the previous plan. In the current plan the site is bound to the south by Convent Cross ACA which extends west along Convent Street and partly up Ballybunion Road. Another ACA is less than 100 east of the site. (Map 3.4). section 3.9.2.2 states: 'The Council will endeavour to conserve the historical built environment, the traditional townscape and the setting of the Architectural Conservation Areas (see Volume 2).' Built Heritage and Urban Design Objectives include:

- LIS 66 Protect important views to and from landmark buildings, historic buildings and associated prospects to ensure the character of these places are adequately protected.
- LIS 67 Ensure that the design of premises or the refurbishment of existing premises in the town is sympathetic to existing development in the vicinity and is of a design composition that enhances the streetscape.

5.2.2. Telecommunications: Section 14.9.1 of the CDP relates to telecommunications as part of the Connectivity chapter which refers to the national priority of critically enabling infrastructure. Section 14.9. states: 'Telecommunications masts are an essential element in providing a communication network for the county. As with most technology they provide benefits, which must be balanced against associated loss of amenities. There is also an increased demand from the domestic and commercial sectors. The Council, therefore, aims to support the sustainable provision of telecommunications infrastructure throughout the county at appropriate locations, including rural areas where practical.' In this regard, the following objectives apply:

- KCDP 14-71 Facilitate the sustainable delivery of high-speed, high-capacity digital and mobile infrastructure and support the continued investment and the delivery of ICT infrastructure, broadband networks and digital broadcasting in the County in line with the National Broadband Plan for Ireland.
- KCDP 14-73 Support the sustainable provision of modern and innovative telecommunications infrastructure at appropriate locations.

5.2.3. Built Conservation

- KCDP 4-3 Preserve the architectural heritage of towns and villages and promote conservation-led regeneration and the re-use of buildings where possible.
- KCDP 8-50 Require that proposals for development within historic designed landscapes be sensitive to and respect the built heritage elements and green space values of the site.

5.3. Telecommunications Antenna and Support Structure – Guidelines for Planning Authorities (1996)

- 5.3.1.** These guidelines set out current national planning policy and criteria for the assessment of telecommunications structures. Guidance is provided on site selection, minimising adverse impact, sharing and clustering of facilities and development control.
- 5.3.2.** The Guidelines are generally supportive of the development and maintenance of a high-quality telecommunications service. In section 4.3 it is stated that the visual impact is among the more important considerations. It is also acknowledged that in most cases the applicant will only have limited flexibility as regards location, given the constraints arising from transmission parameters. Only as a last resort and if the alternatives are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools or the immediate surrounds of smaller towns and villages. If such location should become necessary, sites already developed for utility should be considered and masts and antenna should be designed and adopted for this specific location. The support structures should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure. The sharing of installations and clustering of antenna is encouraged as co-location will reduce the visual impact on the landscape (Section 4.5).

5.4. Circular Letter PL07/12

This circular letter revises elements of the 1996 Guidelines including that:

- attaching a condition to a permission for a telecommunication mast and antennae which limit their life to a set temporary period should cease, except in exceptional circumstances.
- Planning authorities should also cease specifying separation distances for such developments when making Development Plans as they can have a major impact on the roll-out of viable and effective telecommunications network. It advises that whilst the 1996 Guidance on development plan policies restricting development 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.
- 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 telecommunication infrastructure. These are regulated by other codes and such matters should not be additionally regulated in the planning process.
- Development Contribution Schemes must include waivers for broadband infrastructure and these waivers are intended to be applied consistently across all local authority areas.

5.5. Natural Heritage Designations

- 5.5.1.** The northern embankment of the River Feale is 50m south of the site with Convent Street and developed land on each side of this road intervening between the site and river bank. River Feale is part of the Lower River Shannon SAC site code 002165 and this the nearest Natura 2000.

5.6. Material contravention – Section 37 (2) (b) and (c) provisions

S.(2) (b) of the PDA states

‘Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan,

the Board may only grant permission in accordance with *paragraph (a)* where it considers that—

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to F362[*regional spatial and economic strategy*] for the area, guidelines under [section 28](#), policy directives under [section 29](#), the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

Section 2 (c) states

(c) Where the Board grants a permission in accordance with *paragraph (b)*, the Board shall, in addition to the requirements of [section 34\(10\)](#), indicate in its decision the main reasons and considerations for contravening materially the development plan.

6.0 The Appeal

6.1.1. Towercom on behalf of the applicant has submitted an appeal against the decision to refuse permission on the following grounds:

Principle:

- Permission should be granted having regard to regional spatial and economic strategy for the area, Guidelines under section 28 and policy direction under section 29, the statutory objective of the any local authority in the area and relevant government policy.
- The Eir exchange site, amid a mix of land uses, is the optimal location and the visual impact is acceptable notwithstanding its proximity to Convent Cross ACA. The structure is appropriate to the mixed land uses in the site and area and otherwise acceptable having regard to the detailed justification.

- The impact on residential property is refuted particularly as the devaluation claim is unverified.

Justification:

- Vodafone 4G and Eir 4G coverage is fair to fringe to the west of the Community Hospital. It is explained how market growth and demand and the nature of 5G with reduced coverage exceed the capacity of the existing infrastructure. The network must be expanded to ensure high-quality, high-speed service. the purpose of the of the proposal is to upgrade services for Vodafone to improved existing services and provide 4G and 5G services. The Eircom exchange provides links for the existing and new infrastructure.
- It is explained how the capacity and shared facilities have been reduced in the subject site, yet operators are obliged under their licence requirements to provide services in area identified as weak which is part of the national strategy in improving critical infrastructure.
- The challenges are compounded by the reduced indoor capacity due to building insulation and the difficulty in securing planning permission.

Visual Impact/heritage:

- In addition to Vodafone antennae on the garda mast in Church St and on the rooftop of Listowel Arms Hotel (town square), Vodafone antenna are on the rooftop on subject site for localised coverage. There is potential for Vodafone to migrate its panel antennae from the building rooftop to the monopole if permitted.
- The monopole structure addresses the concerns of the lattice structure previously refused on site.
- There is limited flexibility to secure necessary coverage in the town this recognised constraints in the guidelines. The exchange site is ideal to expand service and provides established fibre accessibility for Eir and Vodafone.
- The proposal does not conflict with designated area as listed in the guidelines to be avoided. It does not conflict with the Convent Cross ACA
- The council did not have due regard to guidelines which acknowledge the noticeable nature and if seriously detrimental or overly intrusive in the site context and scale of such impact.

- The guidelines have been adhered to as they allow for freestanding mast as a last resort in a town if in a utilities site. Such masts require adaptation to location and minimal height and should be monopole rather than lattice.
- The proposed site is not in close proximity to schools or churches. While it is close to a house the window orientation, size and position relative to boundary walls and ground level difference mitigate impacts.
- It will have minimal visual impact in immediate environs which is mixed use comprising industrial uses, vacant site and retail and ESB compound. The single storey houses to the south have limited views due to height, high boundary wall and frosted windows. There are only restricted views over the site from other windows.
- The houses on O'Connell's Avenue do not have direct views. There are comparable utilities in the area such as telegraph poles and lighting standards carrying electricity and telephone wires.
- The Eir exchange building is utilitarian and the monopole is not out of keeping. . Other comparable structures permitted include ones at Farranfore (308861) Sneem (308859 and Clonalloor Tralee.
- Based on the visual impact assessment the proposal is not considered to conflict with built heritage objectives for the town.
- The site is not located within an ACA as compared to mast on the garda station.

6.2. Planning Authority Response

- 6.2.1.** The planning authority has no further comments to make with regard to the appeal.

7.0 EIA Screening

- 7.1.** Telecommunications mast is not a class of development for which EIA is required.

8.0 Assessment

8.1. Issues

8.1.1. This appeal is against a decision to refuse permission for a telecommunications support structure. Having regard to the submissions on file and the site and its environs as inspected, I consider the key issues relate to:

- Principle of development
- Impact on the built heritage
- Impact on residential amenities
- Material contravention
- Appropriate Assessment

8.2. Principle

8.2.1. The county development plan and national policy both acknowledge the role of enhanced telecommunications as part of digital connectivity. The development plan has since changed since the lodgement of the application and currently sets out the policy for telecommunications in Section 14.9.1 of the Connectivity chapter which takes on board a national priority for achieving critically enabling infrastructure. The plan clearly seeks to facilitate telecommunications masts in their capacity as an essential element in providing a communication network for the county. (KCDP 14-71 and KCDP 14-73)

8.2.2. The applicant makes the case that the poor indoor coverage in the locality coupled with the increased demand for range and quality of services requires an improved mast facility at this location. The site is located in a utilities site - a former Eir Exchange building and is argued to be the best choice in the locality and compliant with the site criteria as set out in the Ministerial Guidance particularly as updated.

8.2.3. I accept that there is a demand to enhance the service and on this basis, in principle, the provision of a mast in a utilities site in an industrial pocket is acceptable. I consider however the use of a freestanding monopole structure in a built up environment to be a significant issue. I consider the juxtaposition with an ACA and residential development raises issues relating to visual impact and heritage and cannot be disregarded having regard to section 4.3 of the guidelines which state the importance of visual impact.

8.3. Impact on Built Heritage

8.3.1. While a utilities site is a preferred location for a telecommunications mast and antennae if located in an urban area, the proximity of the site to an Architectural Conservation Area and housing place it in a sensitive setting. In this regard I note the Convent Cross ACA adjoins the site to the south and includes cottages and their respective curtilages which bound the site. In terms of visual impact I note the context in respect of:

- the siting of the proposed monopole and palisade fencing abutting the Cottages to the south,
- the existing low rise building character,
- the open nature of the site and
- the extent of antennae on the Exchange site as outlined in blue.

8.3.2. In such circumstances the siting of a 21m high monopole structure with the associated attachments will be visually obtrusive as viewed from the surrounding road network to a significant degree and would be clearly be a dominant feature as viewed from the curtilages of both cottages to the south and from the road frontages on both sides in addition to the wider context. The positioning up against the boundary in a highly visible location within the site and without any degree of buffering such as landscaping including perhaps addressing the boundary treatment, does nothing to ameliorate the proposal in either near or distant views.

8.3.3. It is not clear why the proposal could not be erected on the roof top nor is it clear if and why not the existing antennae and infrastructure are proposed to be rationalised to minimise visual obtrusiveness. There is also the issue of a freestanding monopole structure comprising an efficient use of the land and reinforcement of a streetscape and sense of place in this centrally located site which is also adjacent to a intended rejuvenation area to the west..

8.3.4. While the development plan has changed, the protection of the built environment in town and villages remains a key objective. The Listowel Town Development plan aims to reaffirm the critical role of the town centre and its heritage status and to implement positive measures for its continued vibrancy, using its attractive built form as a positive factor while acknowledging the strong level of protection for buildings and structures necessary to maintain its character. It seeks to ensure development is of a high visual and architectural standard to contribute positively to the attractiveness of the streetscapes and enhance the attractiveness of the town to both

residents and visitors alike. To this end and of direct relevance to the site, the plan includes the Convent Cross ACA which extends along the Convent Road to the south of the site and partly Ballybunion Road west of the site. While I accept the proposed monopole is not within this designated area it directly adjoins this area and would I consider detract from its character. The site already provides such facilities and the addition of such in the manner proposed would result in an excessive intensification of a use that is generally not advisable in such a sensitive setting and would serve to detract from the streetscape and character of the area.

- 8.3.5.** Accordingly I consider the proposal would detract from the views of a historic collection of buildings and would therefore conflict with the current objective LIS66 for Listowel Town, 'to protect important views to and from landmark buildings, historic buildings and associated prospects to ensure the character of these places are adequately protected' and would also conflict with the wider county objective KCDP4-3 which seeks to 'preserve the architectural heritage of towns and villages throughout the county'.

8.4. Impact on residential amenities

- 8.4.1.** The proposal is for a ground-based 21m high monopole structure for multiple antennae and potentially for multiple users at a distance in the order of 3m from the rear boundary of no.36, an extended residential cottage presently offering a Bed and Breakfast accommodation on slightly lower ground. This property in its original form is close to the boundary and it has also been extended to the side close to the boundary but this is not depicted in the survey drawings. It is however apparent in my photographs of the site. As the proposed structure is sited in an open area between the exchange building and a transparent fence bounding no.36, it would be highly prominent, dominant and overbearing as viewed from this property. It would similarly be obtrusive as viewed from the adjacent cottage at no. 38. The obscure windows do not justify such intrusion as this compromises the use of the dwelling. Such a rationalisation is I consider unreasonable. Accordingly I consider the introduction of the telecommunications monopole and antennae together with ancillary palisade fencing will be out of scale with its immediate surroundings and will be both highly prominent and intrusive as viewed from the adjacent residential

properties and will accordingly have a significant overbearing and adverse impact on the residential amenities of these established properties.

- 8.4.2.** Furthermore having regard to the general low height of buildings in the area and the elevated and exposed nature of the site I consider the addition of a 21m high monopole structure in the manner proposed and taken in conjunction with the existing antennae arrangement on site would amount to an unacceptable level of visual clutter, would have a significant adverse impact on the visual and residential amenities of surrounding residential area. I do not accept that the existing poles and light standards are comparable or justification for the nature and extent of development proposed.
- 8.4.3.** While I accept that in an urban environment, telecommunication infrastructure is important to facilitate modern day living, I consider in this case the burden of impact on established residential development by reason of prominence and close proximity is unreasonable.
- 8.4.4.** Notwithstanding the need to enhance services in the vicinity, I do not consider the siting and design of the proposed support structure and antennae has had due regard to its context which includes an adjoining ACA, extensive residential properties and an already cluttered context and as I consider, contrary to the guidance. I do not consider the replacement of a previously proposed and refused lattice structure with a monopole is an adequate design approach.

8.5. Material Contravention

- 8.5.1.** The planning authority in its decision to refuse permission included material contravention of the development plan as a basis for this decision. Significantly, the development plan cited has since lapsed and those particular objectives referenced cannot be reasonably used as a basis for refusal. However the current development plan has included similar objectives in protecting the built heritage while also promoting digital connectivity. These objectives both apply to the site and nature of proposal and the tension between these objectives has been the subject of this assessment. I have concluded that on balance the objectives in respect of the architectural heritage of Listowel by itself and as one of the county towns are undermined by the proposal. In view of the national guidance and the competing objectives I would not go as far to say that permission would materially contravene

the development plan. I do however consider, conflict with such objective regarding the built heritage is grounds for refusal of permission having regard to the proper planning and sustainable development of the area.

8.6. Appropriate Assessment

- 8.6.1.** Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

I recommend that permission be refused for the proposed development for the following reasons and considerations.

10.0 Reasons and Considerations

1. It is considered that the proposed development, by virtue of its visual prominence in an open and prominent corner site within the development area of Listowel town, would not integrate satisfactorily into the urban landscape and would be unduly obtrusive in this area. The proposed development would therefore result in a negative impact on the character of the townscape which includes an adjacent Architectural Conservation Area, Convent Cross, immediately adjacent to the site and would seriously injure visual amenities of the area. The proposed development would accordingly be contrary to objectives LIS66 and KCDP 4-3 which seek to preserve the architectural heritage of towns and villages in the county. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. The site of the proposed development is located adjacent to a pair of single storey dwellings to the south, one of which provides guest accommodation. Having regard to the shared boundary with one these properties and proximity to the other boundary and to the scale and proximity of the proposed

telecommunications structure and associated equipment, it is considered that the proposed development would form a discordant, overbearing and obtrusive feature at this location, would seriously injure the visual amenities of the area and would militate against the protection of residential amenity. Accordingly, having regard to the provisions of 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, it is not considered that the proposed development in the manner proposed is sufficiently justified at this location and would, therefore, be contrary to the proper planning and sustainable development of the area.

Suzanne Kehely

Senior Planning Inspector.

31st May, 2023.