



An
Bord
Pleanála

Inspector's Report ABP-315287-22

Development	21 metre high monopole with associated equipment and site development works.
Location	Eircom Exchange, Churchground (Td), Kilgarvan, Co. Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	22/1037.
Applicant(s)	Eircom Limited (t/a eir).
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party.
Appellant(s)	David and Sandra Brophy and others.
Observer(s)	None.
Date of Site Inspection	28 th April, 2023.
Inspector	Aiden O'Neill.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
4.0 Planning History.....	5
5.0 Policy and Context.....	5
5.1. National Policy	5
5.2. Development Plan.....	6
5.3. Natural Heritage Designations	7
5.4. EIA Screening	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Applicant Response	10
6.3. Planning Authority Response	12
6.4. Observations	12
6.5. Further Responses.....	12
7.0 Assessment.....	13
8.0 Recommendation.....	16
9.0 Reasons and Considerations.....	16
10.0 Conditions	17

1.0 Site Location and Description

1.1. The proposed development site is c. 0.08476ha in area, and is located to the immediate east of an existing Eircom exchange structure within an existing compound, accessed via a pedestrian gate off the public road to the north of, and within the development boundary of, Kilgarvan Village. The site of the proposed mast is currently characterised by 3no. wooden poles (maximum height c. 10m) adjacent to the exchange structure. The proposed development site is surrounded by mature trees and shrubs. There is a garda station with a c. 20m high lattice tower structure to the north; an existing two-storey detached dwelling c.32m further north; a row of 7no. primarily single-storey dwellings (2no. Railway Cottages (Protected Structures) are two-storey) to the west on the opposite side of the public road; Kilgarvan Central School and Kilgarvan Community Playground to the south-west on the opposite side of the public road; and Suíomh Alainn residential estate c.21m to the south.

2.0 Proposed Development

- 2.1. The proposed development will consist of the installation of a 21 metre high monopole telecommunications support structure together with antennas, dishes and associated equipment to the immediate east of an existing Eircom Exchange, Churchground (Td), Kilgarvan, Co. Kerry. The 3no. existing wooden poles will be removed, and associated operator's equipment relocated, to facilitate the proposed development.
- 2.2. The structure is proposed to be located within a 9.46m x 8.96m compound, which will also contain operator's ground equipment (2no. 0.6m x 0.6m single-bay cabinets) surrounded by a 2.4m high palisade fence, with access gate. The structure is designed to house equipment for Eircom, but will have the capacity to facilitate site sharing with third party operators.
- 2.3. Permanent permission is sought.
- 2.4. It is stated in the applicant's report dated 23rd September, 2022 that the application addresses Eircom's requirement to significantly improve services in Kilgarvan and the surrounding area, and that the existing infrastructure is inadequate.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission on 25th November, 2022 subject to 3no.conditions. Permission was granted having regard to national policy regarding the provision of mobile and telecommunications services; the policy of the Kerry County Development Plan 2022; the existing infrastructure on site; and the scale and nature of the proposed development.

Condition no. 2 requires the developer to allow, subject to reasonable terms, other licensed mobile telecommunications operators to co-locate their antenna onto the proposed structure on site, in order to avoid a proliferation of telecommunications structures in the interests of visual amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report dated 24th November, 2022 commented that:

- The height of the proposed new pole will not exceed the height of the existing lattice tower.
- There will be no negative visual impacts associated with the proposed development.
- There are no traffic issues/concerns.
- Having regard to the distance of the pole to existing dwellings in the area, it is considered that there would be no negative impacts on any neighbouring residential amenities.
- The applicants have submitted justification within their report as to the reasons why co-location on existing infrastructure is not appropriate.
- The Planning Department is satisfied that the proposed development would not be contrary to the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

- None on file.

4.0 Planning History

- There is no recent planning history on the subject site.

5.0 Policy and Context

5.1. National Policy

5.1.1 Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, July 1996

Section 4.2 of the Guidelines in relation to design and siting states that:

The design of the antennae support structure and to a great extent of the antennae and other “dishes” will be dictated by radio and engineering parameters. There may be only limited scope in requesting changes in design. However, the applicant should be asked to explore the possibilities of using other available designs where these might be an improvement. Similarly, location will be substantially influenced by radio engineering factors.

Section 4.3 of the Guidelines in relation to visual impact states that:

In most cases the applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters, etc..

Proximity to listed buildings, archaeological sites and other monuments should be avoided.

Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such locations should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation.

Section 4.3 of the Guidelines in relation to Sharing Facilities and Clustering states that sharing of installations (antennae support structures) will normally reduce the visual impact on the landscape.

Where it is not possible to share a support structure the applicant should, where possible, be encouraged to share a site or to site adjacently so that masts and antennae may be clustered.

Operators should be required to furnish a statement of compliance with the International Radiation Protection Association (IRPA) Guidelines (Health Physics, Vol. 54, No. 1 (Jan) 1988) or the equivalent European Pre-standard 50166-2.

DoECLG Circular Letter PL07/12 updates certain sections of the Telecommunications Antennae and Support Structures Guidelines (1996), including in relation to separation distances, and that health issues are not a planning consideration, these being regulated by other codes.

5.2. Development Plan

5.2.1 Section 14.9 of the Kerry County Development Plan 2022-2028 sets out the policy objectives in relation to digital connectivity. It is stated that 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. It is also stated that:

In considering locations for masts and other infrastructure requirements, Kerry County Council will have regard to the 'Telecommunications Antennae and Support Structures Guidelines for Planning Authorities' (DoECLG, 1996) and Circular Letter PL07/12. The Council aims to support the sustainable development of mast infrastructure at appropriate locations which facilitates backhaul in the peninsula areas, and Broadband services to areas of the County with no Broadband service and with poor Broadband service.

5.2.2 Key policy objectives include:

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. to achieve such developments.

KCDP 14-79 Achieve a balance between facilitating the provision of telecommunication infrastructure in the interests of social and economic progress and sustaining residential amenity and environmental quality.

KCDP 14-80 Ensure that the location and provision of telecommunication infrastructure should minimise and/or mitigate any adverse impacts on communities, public rights of way and the natural environment.

5.2.4 The proposed development site is zoned Public/Community/Institutional/Educational in the Kenmare Functional Area Local Area Plan 2010-2016 as extended. Telecommunications infrastructure is not listed as a permitted or open for consideration or not permitted use in the zoning matrix for the LAP. In these circumstances, it is generally the case that a proposed development would be considered on its own merits having regard to the policies of the Plan.

5.3. **Natural Heritage Designations**

The proposed development site is not located in a Designated Site. The nearest site is the Kilgarvan Ice House Special Area of Conservation (SAC) (Site Code: 000364) located c. 2km to the south-west.

Kilgarvan Ice House is also a Proposed Natural Heritage Area (pNHA) (Site Code: 000364).

Kilgarvan Wood c. 0.8km to the south-east is a Proposed Natural Heritage Area (pNHA) (Site Code: 001787).

5.4. **EIA Screening**

5.5. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

One valid Third Party appeal raises the following grounds:

- The basis for the appeal is an objection to the site of the proposed development and its nature as an untested 5G mast.
- The alternative of a co-location with the available mast 1km to the south would be preferred.
- Not one of the 80-100 local residents who attended the public meeting indicated that they could not access broadband.
- No exclusion zone has been assessed and no Certificate of compliance with European Pre-standard 50166-2 has been provided.
- No risk assessment has been provided.
- No pre-application consultation has been undertaken.
- The International Commission on Non-Ionizing Radiation Protection safety guidelines are based on heating effects to an adult-sized head, and cannot be relied upon for safety for children.
- The Board is requested to overturn the decision or refer the application to the appropriate Health Board.
- The potential health effects of very low frequency of electromagnetic fields surrounding electrical devices are the subject of ongoing research and debate.

- The appeal sets out the recommendations of the Parliamentary Assembly in relation to electromagnetic fields.
- Killgarvan is a rural village, not an urban area.
- The proposed development conflicts with the objectives of the Kenmare Functional Area Local Area Plan, specifically the Overall Objectives, Built Heritage Objectives and Natural Environment Objectives.
- The proposed development is an industrial structure that cannot fully integrate with the landscape and the existing environment.
- The proposed development is not in character with the 2no. Protected Structures on the opposite side of the road, or the nearest 2no. Protected Structures in the village.
- The Council assessment is not accurate in respect of the visual impact on residential properties in the vicinity.
- There are no images to accurately represent the proposed development and its impact on the scenic landscape or local housing.
- The proposed development site is not ideally located having regard to its location within an amenity area, beside protected structures, within a characterful village, beside housing, a primary school, a playground, a designated parkland and within a km of a GAA ground and in a scenic landscape.
- The Cellnex site 1km away has been disregarded without consultation.
- The proposed development contravenes materially the development plan objectives. (The Development Plan cited is the 2015-2021 Plan which has been superseded by the 2022-2028 Plan.)
- The garda mast is very domineering in the landscape and the proposed development would be 6m higher.
- It would be an eyesore which would damage the character of the village. These towers cannot be screened.

- The proposed mast is an environmental pollutant and will have a detrimental effect on ecological habitats, and the impact of electromagnetic radiation on insect pollinators is unresolved.
- The proposed development conflicts with NPOs 52, 54 and 55.
- The proposed development should be screened for EIA as there would be likely significant effects on pollinators, bat roosts, migratory swallows, sheep, birds and other fauna, trees and hedgerows.
- Tree felling could occur. A tree survey is requested.
- No Environmental Risk Assessment has been provided.
- The Telecommunications Antennae and Support Structures Guidelines 1996 state that a school location is not favourable. Section 4.3 also states that only as a last resort should free standing masts be located within or in the immediate surrounds of smaller towns or villages or schools.
- In view of the precautionary principle, the safety and health implications of the proposed development should be considered.
- The proposed mast will be at least 13m above the tree line, and there will be a direct line of sight from properties in the vicinity.

6.2. Applicant Response

The applicant's response dated 17th January, 2023 to the Third Party appeal states the following:

- The existing exchange combined with poles and associated equipment already benefit from established utilities and links to the network providing services to the community.
- It is a strategic location enabling eir to link with the exchange ensuring technological and work efficiencies.
- To meet the demands for modern services, the equipment needs to be upgraded.

- It is acknowledged that there is a 20m high latticework mast at the Garda station to the northwest. This is occupied by emergency services and Vodafone. The top 6m is reserved for emergency services, with Vodafone taking the next 3m below. If eir was to locate at this mast, it would be below Vodafone, which would be too low for eir to secure the necessary equipment to provide the required services, and the structural capacity of the mast may be at risk.
- For efficiency, all equipment would be housed within the grounds of the exchange rather than divide its infrastructure across separate compounds.
- As explained in the coverage maps included with the application, the installation will provide enhanced 4G and the latest 5G services to the local area.
- Eir is already transmitting from existing telecommunication sites to the south (the Cellnex mast) and east, and due to the limited propagation of the modern services, these sites are too far away to secure coverage for the target area.
- Eir's 4G coverage is shown in the Comrg Outdoor Coverage Map as 'good' but this classification reduces to 'fair' at the town's outskirts. Eir coverage in Kilgarvan environs requires enhanced 4G and 5G coverage.
- The monopole structure is the most minimal available, and is the preferred design in towns and villages in accordance with the Guidelines 1996.
- The Guidelines also state that sites already providing utilities should be considered.
- Most of the information detailed in the appeal is not a planning matter.
- The provisions of Circular Letter PL07/12 with respect to health issues apply.
- The proposal is close to an existing mast resulting in a clustering effect.
- The location to the north of the village away from the main road and the village centre is minimal.
- The proposal will not create an undue impact on the character of the village or any protected structures or National Monuments.

- The Protected Structures are on the opposite side of the road and do not directly face the proposed development. The impact of the proposed development is marginal compared to the existing view.
- The Garda mast is not seen from the Protected Structure in the village, therefore the proposed development will have minimal impact on the village.
- Reference is made to the Inspector's report on PL26.247800 which states that the Guidelines 1996 provide no restriction in term of distances between structures and dwellings.
- It would be impossible to provide telecommunications services without locating infrastructure in proximity to residential dwellings, towns and villages.
- The proposed development will not have a negative impact on the natural environment.
- Eir is undertaking the necessary actions to comply with carbon targets set for 2030 and 2050.
- AA and EIA were screened out by the Planning Authority.
- The proposed development will enhance the overall experience of tourists requiring high-quality data services.
- With respect to line of sight, all masts must be above the target coverage area in order to provide the required services.

6.3. Planning Authority Response

- None on file.

6.4. Observations

- None on file.

6.5. Further Responses

- None on file.

7.0 Assessment

7.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

7.2. I note the appeal issues raised in respect of health and safety. I refer to DoECLG Circular Letter PL07/12 which updates certain sections of the Telecommunications Antennae and Support Structures Guidelines (1996), and which specifically states that health and safety matters are regulated by other codes and should not be additionally regulated by the planning process.

7.3. The main issues, therefore, are as follows:

- Location of the proposed development
- Impact on the environment, including visual impact
- Appropriate assessment

7.4. Location of the proposed development

7.4.1. The Third Party appeal raises concerns regarding the location of the proposed development relative to existing sensitive uses, including a school, a park, residential development and Protected Structures.

7.4.2 The Third Party appeal also considers that the alternative of co-locating with an existing Cellnex mast 1km to the south has not been considered.

7.4.3 The Third Party contends that the proposed development is not consistent with the Telecommunications, Antennae & Support Structures – Guidelines for Planning Authorities 1996.

7.4.3 However, the proposed development site is an existing, established Eircom compound at the northern end of Kilgarvan Village, which comprises an exchange structure and 3no. wooden poles 10m in height (maximum).

7.4.4 There is an existing Garda station to the immediate north which has an existing 20m high lattice tower.

- 7.4.5 The proposed development site is therefore an established utilities infrastructure location.
- 7.4.6 The proposed development will result in the replacement of 3no. existing wooden poles and the installation of a new monopole structure 21m in height.
- 7.4.7 The proposed development will result in the co-location of new telecommunications infrastructure with existing, established infrastructure.
- 7.4.8 The co-location of the proposed development, a monopole structure, with existing utilities is consistent with the Guidelines 1996.
- 7.4.9 In addition, the applicant has demonstrated the need for the proposed development by reference to ComReg outdoor coverage maps, which identifies that Kilgarvan environs requires enhanced 4G and 5G services.
- 7.4.10 Furthermore, the applicant has also clarified that there is no other alternative. The existing mast at the Garda station is not suitable, with the available space too low to provide the required services. The applicant is already transmitting from the mast 1km to the south, but that mast does not provide coverage for the Kilgarvan environs.
- 7.4.11 It is also noted that the proposed development will be available for site sharing which is consistent with the Guidelines 1996.
- 7.4.12 Having regard to the overarching policies of the Kerry County Development Plan 2022-2028 which acknowledge the importance of a modern, efficient telecommunications system for the future development of the County that is a vital element of the County's infrastructure, it is considered that the proposed development is acceptable at this site, and is not inconsistent with the applicable Public/Community/Institutional/Educational zoning objective as per the Kenmare Functional Area Local Area Plan 2010-2016 as extended.
- 7.4.13 On this basis, it is considered that the proposed development is appropriately sited.

7.5 Impact on the environment, including visual impact

- 7.5.1 The Third Party appeal raises concerns regarding the impact of the proposed development on the environment, including impact on sensitive uses, including Protected Structures, and visual impact.
- 7.5.2 I note the preliminary EIA Screening report of the Planning Authority in the planner's report dated 24th November, 2022, and I would be inclined to agree that, having regard to its nature, scale and urban setting, in an established utilities site, the proposed development is unlikely to have a significant effect on the environment.
- 7.5.3 Having regard to the distance to the nearest residential use, the proposed development is not likely to have a significant effect on residential amenity.
- 7.5.4 In relation to built heritage, there are no Protected Structures, no NIAH structures and no Recorded Monuments at the proposed development site. The proposed development site is not located in or near an Architectural Conservation Area.
- 7.5.5 There are 2no. Protected Structures - 2no. Railway Cottages – RPS-KY-0470 and RPS-KY-0471 – located to the south-west of the proposed development site. Given the existing, established mast, and the proposed mast of a similar height, it is not considered that there will be a significant effect on the 2no. Protected Structures. There is also unlikely to be a significant effect on Protected Structures further south.
- 7.5.6 In relation to visual impact, the proposed development site is also not located in a Visually Sensitive Area or subject to any identified Views/Prospects, as defined in Map S of Volume 4 of the Kerry County Development Plan 2022-2028.
- 7.5.7 The proposed development site is an established utilities location with existing mast/pole infrastructure of between 10-20m in height surrounded by mature trees and shrubs. The proposed 21m high monopole mast will not result in a significant visual impact in this context.
- 7.5.8 Given the established uses at the site and in the immediate vicinity, it is considered unlikely that the proposed development will have a significant negative effect on tourism. I would tend to agree with the applicant that the provision of a more improved telecommunications service will appeal to tourists, in addition to being of assistance to local residents.

- 7.5.9 The proposed development will also not require any significant tree removal, therefore a tree survey is not warranted.
- 7.5.10 It is therefore submitted that the proposed development is acceptable in terms of its effects on the environment, and is therefore consistent with policy objective KCDP 14-80 of the Kerry County Development Plan 2022-2028, in relation to minimising any adverse impacts on the environment.

7.6 Appropriate Assessment Screening

- 7.6.1 Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

8.0 Recommendation

- 8.1. I recommend that planning permission be granted based on the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of The Telecommunications Antennae and Support Structures Guidelines for Planning Authorities 1996, as updated by Circular Letter PL07/12; the provisions of the Kerry County Development Plan 2022-2028; the established use of the proposed development site; and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions below, the proposed development would not seriously injure the visual or residential amenities of the area, and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 3rd October, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The developer shall allow, subject to reasonable terms, other licensed mobile telecommunications operators to co-locate their antenna onto the mast authorised by this permission.</p> <p>Reason: In order to avoid a proliferation of telecommunications structures in the interest of visual amenity.</p>
3.	<p>The site shall be reinstated on the removal of the telecommunications structure and ancillary structures. Details relating to removal and reinstatement shall be submitted to, and agreed in writing with, the Planning Authority at least one month prior to the intended date of removal of the telecommunications structure and ancillary structures.</p> <p>Reason: In the interest of orderly development.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Aiden O'Neill

Aiden O'Neill
Planning Inspector

17th June, 2023