



An
Bord
Pleanála

Inspector's Report ABP316370-23

Development	Retention of telecommunications structures and associated equipment.
Location	The Harp, 10 Main Street, Cahersiveen, Co. Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	23/97.
Applicant(s)	Eircom Limited (EIR).
Type of Application	Retention.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Eircom Limited (EIR).
Observer(s)	None
Date of Site Inspection	16 th October 2023.
Inspector	Aisling Dineen.

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1.0 Site Location and Description

- 1.1. The site is situated on Main Street, Cahersiveen in Co. Kerry. Cahersiveen is located in the northern coast of the Iveragh Peninsula on the N70, Ring of Kerry and on the Wild Atlantic Way. It is c.32 km southwest of Kilorglin and c 60 km south west from Tralee. Therefore, the area is highly touristed and Main Street (the N70) would facilitate a large volume of through traffic.
- 1.2. The site contains a three-storey flat roof building, which accommodates the Harp Bar. Development on either side of the site comprises a hardware store and a café. There are various mixed uses within the vicinity of the site.
- 1.3. The roof structure is flat and this breaks from the prevalent pitch roof profile characteristic of the contiguous development on either side of the site and across the road from the site.
- 1.4. The proposed telecommunications equipment is to be situated on the flat roof structure of the Harp Bar along the top of the front façade.

2.0 Proposed Development

- 2.1. It is proposed to erect three telecommunications panels measuring 2 metres in height each on the flat roof of the Harp Bar, Main Street, Cahersiveen. These three panels are proposed to be attached to three separate steel poles. A remote radio unit at each panel will be used to promote the signal. There is a single microwave link dish attached to one of the poles proposed. The equipment is to be connected to a cabinet at the rear of the building at a lower level. Access is proposed to be gained from a rear roadway. Access to the proposed height will be gained by use of ladders.

3.0 Planning Authority Decision

3.1. Decision

The planning authority made a decision to refuse planning permission on the 28th March 2023.

The refusal reason is as follows:

The application site is located at Main Street, Cahersiveen in a designated Architectural Conservation Area (ACA) in the West Iveragh Local Area Plan 2019 – 2025. It is considered that the proposed development would detract from the architectural heritage of the streetscape and would materially contravene Objective CH-ACA-04 of the West Iveragh Local Area Plan 2019-2025, which seeks to ‘preserve the towns architectural heritage and encourage development that is designed in a manner that is in keeping with the scale, character and pattern of the existing built fabric and urban form’. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

The Chief Executive’s decision reflects the planner’s report.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planners report refers to the site location/rooftop, the town centre M2 zoning, principle of development, visual impact and the nature of the site within an ACA. The report noted no traffic concerns and no residential amenity impacts. The report recommended that retention permission be refused as per para 3.1 above.

3.2.2. Other Technical Reports

None.

4.0 Planning History

None.

5.0 Policy and Context

5.1. Development Plan

Kerry County Development Plan 2022 -2028

Section 14.1: Proper transportation and broadband telecommunications constitute vital elements of this infrastructure and are a major factor in attracting industry and employment to an area.

Section 14.9: Enhanced quality and provision of digital and mobile telecommunications infrastructure is critical for the revitalisation of cities, towns, villages and rural areas. Developments in information and communications technology (ICT) continues to fundamentally change how our society and economy functions.

KCDP Objective 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 Objective 14 -73: Support the sustainable provision of modern and innovative telecommunications infrastructure at appropriate locations.

KCDP Objective 8 – 44: Ensure developments in an ACA have a positive impact on the intrinsic character of the area, respect the existing streetscape and layout, and are compatible in terms of design, materials, traffic, views, and intensity of site use.

West Iveragh Local Area Plan 2019-25

Section 3.2.1: ‘The vision for Cahersiveen is to be the focus for growth and development as the primary urban centre for a large rural hinterland with key employment, educational, service and tourist functions...Improvements to the built environment and public domain are necessary to attract more visitors and investment to the town’.

Section 3.2.6: ‘Town Centre: To maintain a vibrant town centre, it is essential that the level of retail provision, commercial activity and residential use in Cahersiveen town centre is maintained and enhanced. Significant levels of vacant and underused buildings exist along Cahersiveen’s primary streets. In tandem with addressing this rate of vacancy the historic character of Cahersiveen and its built fabric must be preserved, improved and maintained’.

3.2.7 Tourism: ‘Cahersiveen however has significant untapped potential to develop as a major tourist destination. A high number of tourists exploring the Ring of Kerry travel through the town’.

Section 3.2.11.2: Architectural Conservation Areas (ACAs) recognise that the value of a historic area depends on much more than the quality, scale, material and

detailing of individual buildings. It is also shaped by the layout and the vistas along streets and between buildings. Shop fronts, street furniture and hard and soft surfaces are also key elements of the historic character of the area. Consequently, ACAs are designed to conserve whole streetscapes. Elements of Cahersiveen's streetscape display an architectural harmony which is not only visually attractive but forms and intrinsic part of the urban character of the town.

Objective CH T- 02 aims to promote Cahersiveen as a service centre for visitors and tourists to the Iveragh peninsula/ Ring of Kerry.

Objective CH- ACA-04 aims to preserve the town's architectural heritage and encourage development that is designed in a manner that is in keeping with the scale, character and pattern of the existing built fabric and urban form. New developments must be designed to a high architectural standard and must take cognisance of local design features and materials.

5.2. **National Policy**

The National Planning Framework under NPO 48 states -

'In co-operation with relevant Departments in Northern Ireland, develop a stable, innovative and secure digital communications and services infrastructure on an all-island basis.'

The NPF sets out National Strategic Outcomes including Strengthened Rural Economies and Communities. In this regard the NPF states-

'....improved connectivity, broadband and rural economic development opportunities are emerging which offer the potential to ensure our countryside remains and strengthens as a living and working community'.

Regional Spatial & Economic Strategy for the Southern Region.

Section 6.2

Enhanced quality and provision of digital and mobile telecommunications infrastructure is critical for the revitalisation of cities, towns, villages and rural areas.

Developments in information and communications technology (ICT) continues to fundamentally change how our society and economy functions.

Telecommunication Antennae and Support Structures: Guidelines for Planning Authorities 1996

These Guidelines set out the criteria for the assessment of telecommunications structures. The relevant points to this application and appeal are summarised below.

- Planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds. These are regulated by other codes and such matters should not be additionally regulated by the planning process.
- An authority should indicate any locations where telecommunications installations would not be favoured or where special conditions would apply. Such locations might include high amenity lands or sites beside schools (Section 3.2).
- Along major roads or tourist routes, 'views of the mast may be intermittent and incidental, in that for the most of the time viewers may not be facing the mast.' (Section 4.3).
- In relation to smaller towns section 4.3 of the Guidelines specifically states; 'Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such 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. The support structure should be kept to the minimum height consistent with effective operation.'

Circular Letter PL07/12 (October 2012)

This Circular Letter revises elements of the 1996 Guidelines including –

- 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 distance for such developments when making Development Plans as they can inadvertently have a major impact on the roll-out of viable and effective telecommunications network.
- 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.

5.3. Natural Heritage Designations

The closest European Site is Valencia Harbour/Portmagee Channel SAC (Site Code: 002262) approx. 6 km west of the site and the Iveragh Peninsula SPA (Site Code: 004154) approx. 7 km west of the site.

5.4. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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. Grounds of Appeal

- The proposed development would not detract from the architectural heritage of the streetscape and would not materially contravene Objective CH- ACA-04 of the West Iveragh Local Area Plan 2019-2025.
- Due to the nature of these services, it is a requirement to be within close proximity to the demand.
- A history of the evolution of Eircom Limited (eir) is presented and concludes that Eir took over the Meteor network and brand in 2005 and the purpose of this subject installation is to complete a gap within the coverage area in the centre of Cahersiveen and to meet the growing demand for modern services.
- Eir notified Kerry County Council of its intention to carry out exempted development pursuant to Class 31 (k) (Part 1 of Schedule II, Planning and Development (Amendment) (No 3) Regulations 2018), at the site. Before the applicant received notification that the development was not exempt as it falls within an ACA, the equipment had been erected. Hence the reason for the retention application.
- By way of justification, it is stated that prior to the installation Eir's indoor coverage within Cahersiveen was unable to penetrate along the street resulting in weak coverage and service gaps. Service users within the town were unable to make or receive calls and dissatisfaction mounted among business tourism and residential community.
- There are a number of letters of support submitted with the planning application and it should be noted that there was no objection submitted during the planning process.

- Coverage maps are submitted which demonstrate an oval shaped area, in the town, which the ESB mast Castlequin/propagation signals were unable to reach. The installation has resulted in significant improvement.
- There are two other masts either side of Cahersiveen, a Garda mast and a Towercom mast, however Eir's survey team have discounted these sites as the coverage required cannot reach into the gaps necessary to complete the target.
- Kerry County Development Plan 2022-2028 policy and objectives support the proposal. National Guidance with reference to DOEHLG 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities (as updated by PL07/12 of 2012), inter alia, supports the proposal. National and regional policy support the proposal.
- The Covid 19 pandemic has illustrated the digital divide across geographic regions and socio-economic groups. It is essential for economic competitiveness and resilience to provide new and continual re-investment in digital infrastructure.
- The proposed site avoids the need for a mast within the town and uses the roof top of an established building.
- Cahersiveen is classified as a regional town in the Kerry County Development Plan and is therefore an important town demanding the highest standards of communication for local businesses, residents and tourists. Without the proposed installation there would be an imbalance and would thereby fail to satisfy Objective 14-79 in the development plan.
- While the proposed site is within an ACA, it does not conflict with any listed buildings, archaeological sites or monuments.

6.2. Planning Authority Response

The Planning Authority did not respond to the appeal.

6.3. Observations

- None.

6.4. Further Responses

- None.

7.0 Assessment

7.1. Having examined all the application and appeal documentation on file and having regard to the 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 the planning authorities' reason for refusal and I am satisfied that no other substantive issues arise. AA also needs to be considered. The main issues, therefore, are as follows:

- Principle of Development
- Justification
- Visual Impact
- Impact on ACA
- Appropriate Assessment

7.2. Principle of Development

7.3. I consider that the principle of telecommunications infrastructure at this location, is acceptable, subject to satisfying normal planning criteria including (inter alia) an assessment on whether the proposal would impact, or not, on the character of the ACA.

7.4. Justification

7.5. Coverage maps submitted clearly indicate low coverage zones in the area along Main Street, Cahersiveen and they also show potential improvement in terms of coverage to the search/target area. It is apparent, based on submissions on file that such infrastructure would fill a gap in the communities' telecommunications network and this would benefit the town, specifically the area along Main Street.

7.6. Local residents and business people have submitted letters of support for the proposal and I note that there were no objections during the planning application process.

- 7.7. Having reviewed the information contained within the application and the existing coverage information available on the ComReg website, I am satisfied that the principle of requiring a telecommunications structure at this location has been justified.
- 7.8. I note that consideration was also given to two alternative sites in the area, both of which were discounted, as they were unable to reach the target area. I have reviewed both alternatives and I am satisfied that it is reasonable that both were discounted due to their geographic locations relative to the target or search area. I am satisfied that in the absence of suitable alternative sites, the subject site can be considered and assessed based on its merits.
- 7.9. While there is a clearly a justification for the principle of having telecommunications infrastructure at this location, there is no actual justification for the need for three separate panels to be erected, on this roof top, at different locations along the front of the subject building, at this particularly sensitive location within an Architectural Conservation Area (ACA). The report submitted on behalf of the appellant does not attempt to explain the necessity or rationale for all three visually and spatially separated structures. There is no justification or rationale presented regarding why one such pole with attached panels/antennae, with dishes and equipment etc. thereon, has not been proposed, in view of the sites' sensitivity and without prejudice.
- 7.10. I acknowledge that the appellant makes the case that the equipment was erected before the appellants were informed that the site was within an ACA and was therefore not 'Exempt Development'. However, the planning status of the area should have been appraised when submitting the LN (Local Authority Notice). Not knowing the planning status of the area, is not sufficient reason, to justify three separate poles and dishes, on a focal central building, at a such sensitive location.
- 7.11. Therefore, I am of the viewpoint that while there is clearly a requirement for telecommunications infrastructure to satisfy demand in the target area, I am also of the viewpoint that the County Development Plan, in addition to the Iveragh 2019-2025 has set out clear policies and objectives, which aim to preserve the towns architectural heritage and encourage development that is sensitively designed within the ACA. From a comprehensive review of the documentation submitted, I consider

that insufficient information is submitted to justify the extent of visual cluttering of such equipment, with three panels and associated equipment, at this sensitive and visually prominent location within an ACA.

7.12. Visual Impact

- 7.13. No Visual Impact Assessment Report (VIA) has been submitted as part of the planning application and appeal documentation.
- 7.14. While I note that the equipment, the subject of retention is in situ, it is considered that a VIA is a worthwhile document, to assess proposed development, in a site context and with regard to contiguous development, specifically in a sensitive area.
- 7.15. From my inspection of the site, it is apparent that the Harp Bar building, is a highly focal point at the centre of Main Street. It has an elevated flat roof top, which breaks the roof profile of the established contiguous development, which has lower pitch roof profile, on either side. This adds to the focus and commanding presence of the Harp Bar within the streetscape. The visual field of the site and the structures thereon, subject of retention, opens up from the junction of Main Street and O'Connell Street, to the east of the site, and the visual field of the site opens up from the junction of Main Street and Old Market Street to the west of the subject site.
- 7.16. The three structures on the roof top of 'The Harp Bar', present as highly visually cluttered in the near distance and on approach to Main Street from both sides on the approach road. Naturally pedestrian visibility of the structures on the roof top site is greater on the north side of main street than the south side of the street, but as one nears the site the visual impacts naturally appear more prevalent.
- 7.17. Visibility of such structures unto itself, in any given townscape, is not necessarily sufficient reason to refuse such a development, but in this site-specific context, where there are structures set on top of a highly focal building within the streetscape and within a designated ACA, and in the absence of any appropriate visual mitigation measures, it is considered that the structures appear to be incongruous in the streetscape and negatively impact on the visual amenities of the area.
- 7.18. It is noted that the Telecommunications Guidelines (1996) refer to 'incidental or passing views' as a justification to permit certain forms of telecommunications structures, in certain instances. Whilst there is considerable through traffic in the town of Cahersiveen, which is also on the tourist route, 'The Ring of Kerry', I

consider that the Main Street of the town is also a vibrant trading town and a designated 'Regional Centre' under the CDP, with considerable pedestrian activity/footfall noted on the date of inspection. Given the ACA status of the area, I do not consider the above policy to be applicable in this instance.

7.19. It is noted that no attempt has been made or included within the application/appeal documentation to screen/shroud the structure(s) in whole or in part, with appropriate materials to lessen visual impacts, especially given the sites' sensitivity. While the Board may consider it appropriate to grant permission and apply such a condition, I recommend a refusal based on the fact that the three separate structures cumulatively, at this sensitive location have not been justified.

7.20. Impact on ACA

7.21. No Architectural Heritage Impact Assessment (AHIA) report has been submitted as part of the planning application and appeal documentation.

7.22. The agent for the appellant makes a case that the proposal will not impact on and would not detract from the architectural heritage of the streetscape and would not materially contravene Objective CH- ACA-04 of the West Iveragh Local Area Plan 2019-2025. The appellant lists the Protected Structures within the townscape and submits that the proposal would not impact on any protected structures. The agent cites the importance of continued development in ACA designated areas.

7.23. I concur with the agent regarding the importance of development in ACA's with respect to bringing vacant properties back into use etc. This concept is also very well espoused under the County Development Plan and under the West Iveragh Local Area Plan. Section 2.3.8.1 of the LAP refers to regeneration *inter alia*. However, any such development, must be designed sensitively and must not impact the character of places and townscapes and must '*preserve the town's architectural heritage and encourage development that is designed in a manner that is in keeping with the scale, character and pattern of the existing built fabric and urban form*'.

7.24. In this instance, I consider that the ACA captures the character of the townscape of Cahersiveen and is not solely about specific protected structures. In this regard, I refer to Section 2.5.3 of the Architectural Heritage Guidelines, which states:
Protection by inclusion within an ACA may be more appropriate where a group of structures is of value because of its contribution to the streetscape or other area and

where the interiors and curtilages do not merit the level of protection afforded by the RPS.

7.25. With regard to the ACA, it is noted that no further mitigation has been proposed to reduce potential negative impacts on the character of the ACA. It is my considered opinion that a wholly more sensitive and innovative design approach needs to be adopted in this specific site context. It is noted that the Telecommunications Guidelines (1996), para 4.2, in referring to design and context states: *'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'*. In this site-specific context, an improvement or mitigation is warranted.

7.26. In the absence of any such mitigation, also referred to under para 7.17 above, I concur with the planning authority and consider that the development, the subject of retention, in its current format and in the absence of any proposals to shroud or screen the development with appropriate materials, would materially contravene Objective CH- ACA-04 of the West Iveragh Local Area Plan 2019-2025.

7.27. Appropriate Assessment

Having regard to the limited nature of the proposed development and the nature of the receiving environment and the proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. It is recommended that permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to visually prominent location of the site on the north side of Main Street in Cahersiveen, on a prominent building within the streetscape and within a designated ACA, and in the absence of sufficient detail to justify the extent of the proposal, or to screen the proposal (with appropriate materials), given the sensitive nature of the site, it is considered that the proposed development, as presented under the application and appeal, would seriously injure the visual amenities of the area and would detract from the architectural heritage of the streetscape and materially contravene Objective CH-ACA-04 of the West Iveragh Local Area Plan 2019-2025, which seeks to 'preserve the towns architectural heritage and encourage development that is designed in a manner that is in keeping with the scale, character and pattern of the existing built fabric and urban form'.

'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.'

Aisling Dineen
Planning Inspector
23rd October 2023