



An
Bord
Pleanála

Inspector's Report ABP-317890-23

Development	Permission to erect a 15-metre-high telecommunications monopole together with antennas, dishes and associated equipment
Location	Eir Exchange, Friars Gate, Town-plots, Kinsale, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	23/5200
Applicant(s)	Eircom Ltd (t/a Eir)
Type of Application	Planning Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Eircom Ltd (t/a Eir)
Observer(s)	Georgina Sutton & Others
Date of Site Inspection	9 th November 2023
Inspector	Gary Farrelly

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.016 hectares and is located within the town of Kinsale, County Cork. The site is located within the grounds of an existing Eir Exchange building. The site comprises of an industrial type building and a 12-metre-high existing timber pole. Access to the site is via Friar's Gate to the west.
- 1.2. The topography of the immediate area slopes upwards from the south to the north. Lower Catholic Walk, which adjoins the site to the north is located above the level of the subject site. The immediate area is characterised by residential properties. An existing lattice type mast is located approximately 130 metres south of the site.
- 1.3. The site is located within the Architectural Conservation Area (ACA) of Kinsale. The site is bounded to the south by the historic walls of the town, which is designated in the record of monuments and places (RMP C0112-034002-). There are a number of protected structures within close proximity of the site, such as the Catholic Church of Our Lady of Mount Carmel (RPS Ref. 2,303) approximately 70 metres to the east of the site, the Church of St. John (RPS ref. 2,305) approximately 50 metres to the southeast and Clare Cottage (RPS Ref. 2,306) approximately 60 metres to the west.

2.0 Proposed Development

- 2.1. The proposal seeks permission for the erection of a 15-metre-high monopole telecommunications support structure together with antennas, dishes and associated telecommunications equipment, and permission for the removal of an existing 12-metre-high telecommunications timber pole. The structure is proposed to be enclosed in security fencing.
- 2.2. The application is accompanied by the following:
 - Architectural Heritage Impact Assessment
 - Photomontages from 8 viewpoints
 - Justification Report

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a notification to refuse to grant permission for the proposed development by Order dated 31st July 2023 for the following reasons:

1. The proposed development would be located in a High Value Landscape within a designated Architectural Conservation Area and in close proximity to a number of important protected structures. As set out in the Cork County Development Plan 2022, it is stated policy under Objectives HE 16-14 and HE 16-18 to ensure new developments are not detrimental to the special character and integrity of protected structures and their settings and to conserve and enhance the special character of Architectural Conservation Areas. The proposed development, by reason of its scale, height and utilitarian nature, would materially affect the character and setting of adjacent important protected structures, would be seriously injurious to the character and amenities of the designated Architectural Conservation Area, would be out of character with the existing pattern of development in the vicinity and would be visually obtrusive when viewed therefrom. The proposed development would, therefore, materially contravene the above stated policy objectives of the Cork County Development Plan 2022 and accordingly, would be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of its nature, scale, location within the historic setting of Kinsale town and proximity to Kinsale's Historic Town Defences which are important recorded archaeological monuments, would contravene materially Policy Objectives HE 16-2, HE 16-4 and HE 16-7 of the Cork County Development Plan 2022 which seek to secure archaeological monuments and their settings, to protect, and mitigate impacts on, historic walled towns and to protect and preserve the defensive archaeological record of County Cork, including associated landscapes due to their historical and cultural value. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development, by reason of its location within an established residential area and having regard to the nature, height, scale and close proximity of the proposed structure to existing residential properties, would seriously injure the residential amenities and depreciate the value of nearby property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Senior Planner's report assessed the development in terms of the visual impact, the planning history, the built heritage of the town, the archaeological impacts of the development, the impact on residential properties and the assessment of alternatives. The report recommended 3 no. reasons for refusal.

3.2.2. Other Technical Reports

- Area Engineer's report (dated 27/07/23) – This report considered that the development was unacceptable due to negative visual impact and location within a residential area.
- Archaeologist's report (Dated 27/07/23) – This report considered that the development was unacceptable given a negative visual impact on the setting of the archaeological monuments, in particular the town defences and the wider historic townscape. The fencing, access gates would significantly detract from the historic character of the town walls and the development is not in keeping with the National Policy on Town Defences. The report also stated the development would be contrary to archaeological objectives of the CDP.
- Environment report (dated 20/07/23) – This report had no objection to the development subject to conditions.

3.3. Prescribed Bodies

- Irish Aviation Authority – They stated that there was no requirement for obstacle lighting on this structure.

3.4. **Third Party Observations**

A number of third-party observations/submissions were received on the application. Several issues were raised including, inter alia, the impact of the development on the architectural conservation area and protected structures, the impact on archaeology, concerns with the location of the development within a residential area, the impact on designated scenic amenity, concerns regarding health and safety, the impact on the natural environment and concerns that alternative locations were not considered. Concerns were also raised regarding the positioning of the photomontages.

4.0 **Relevant Planning History**

PA Ref. 20/6048

Permission was sought by Vodafone Ireland to erect a 18 metre high monopole at Eir Exchange and was refused permission on grounds of an adverse impact on the ACA, protected structures, the scenic view and amenity walkway and a serious impact on residential amenities.

PA Ref. 20/5337

Permission was sought by Vodafone Ireland to erect a 20-metre-high monopole at Eir Exchange and was refused permission on grounds of an adverse impact on the ACA, protected structures, the scenic view and amenity walkway and a serious impact on residential amenities.

5.0 **Policy Context**

5.1. **Development Plan**

Cork County Development Plan 2022-2028

The subject site is zoned 'Existing Residential/Mixed Residential and Other Uses'. The Plan states that Other uses/non-residential uses should protect and/or improve residential amenity and uses that do not support, or threatens the vitality or integrity of, the primary use of these existing residential/mixed residential and other uses areas will not be encouraged.

Kinsale is identified as a Main Settlement within the Bandon Kinsale Municipal District. It is an objective of the Plan to protect and enhance the natural and built heritage assets of the medieval coastal settlement and to facilitate the development of Kinsale as one of the County's principal tourist attractions. Future development is focussed on consolidation of the town and limited expansion in order to respect the town's architectural heritage and unique battlefield landscape which contribute to the town's scenic and coastal setting. It is also important that the infrastructure projects planned for the town are carried out in a timely manner.

General Objective for Kinsale

KS-GO-05 – Protect the heritage assets of the town including the Battlefield Sites, maritime heritage and its attractive townscape features including its roofscape, urban morphology, fenestration details, slate-hung facades and street furniture.

Section 8.15 The Rural Economy

To maximise the positive impacts of delivering employment near where people live, digital connectivity upgrades and rollout should also have regard to where development is envisaged. Good digital connectivity is considered to be vital to the rural economy and is discussed further in Chapter 13 Energy and Telecommunications.

Section 13.18 Communications and Digital Connectivity

Access to high quality digital and mobile telecommunications infrastructure is critical to the social and economic wellbeing of communities and can support the revitalisation of towns, villages and rural areas. While the importance of telecommunications infrastructure is acknowledged, it is equally as important that the landscape, both urban and rural, are considered and protected from any significant impact caused by such infrastructure.

ET 13-28: Information and Communications Technology

a) Facilitate the delivery of a high capacity ICT infrastructure and high-speed broadband network and digital broadcasting throughout the County in accordance with the Guidance on Environmental Screening / Appropriate Assessment of Works in relation to the Deployment of Telecommunications Infrastructure (2020).

HE 16-2: Protection of Archaeological Sites and Monuments Secure the preservation (i.e. preservation in situ or in exceptional cases preservation by record) of all archaeological monuments and their setting included in the Sites and Monuments Record (SMR) (see www.archaeology.ie) and the Record of Monuments and Places (RMP) and of sites, features and objects of archaeological and historical interest generally.

HE 16-4: Zones of Archaeological Potential in Historic Towns and Settlements Proposed development works in Historic Towns and settlements, Zones of Archaeological Potential, Zones of Notification and the general historic environs in proximity to the zones, should take cognisance of the impact potential of the works, and all appropriate archaeological assessments employed to identify and mitigate the potential impacts.

HE 16-7: Battlefield, Ambush and Siege Sites and Defensive Archaeology

Protect and preserve the defensive archaeological record of County Cork including strategic battlefield, ambush and siege sites, and coastal fortifications and their associated landscape due to their historical and cultural value. Any development within or adjoining these areas shall undertake a historic assessment by a suitably qualified specialist to ensure development does not negatively impact on this historic landscape.

HE 16-14: Record of Protected Structures

- c) Seek the protection of all structures within the County, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.
- d) Ensure the protection of all structures (or parts of structures) contained in the Record of Protected Structures.
- e) Protect the curtilage and attendant grounds of all structures included in the Record of Protected Structures.
- f) Ensure that development proposals are appropriate in terms of architectural treatment, character, scale and form to the existing protected structure and not detrimental to the special character and integrity of the protected structure and its setting.

g) Ensure high quality architectural design of all new developments relating to or which may impact on structures (and their settings) included in the Record of Protected Structures.

HE 16-18: Architectural Conservation Areas

Conserve and enhance the special character of the Architectural Conservation Areas included in this Plan. The special character of an area includes its traditional building stock, material finishes, spaces, streetscape, shopfronts, landscape and setting. This will be achieved by;

(b) Promoting appropriate and sensitive reuse and rehabilitation of buildings and sites within the ACA and securing appropriate infill development.

(c) Ensure new development within or adjacent to an ACA respects the established character of the area and contributes positively in terms of design, scale, setting and material finishes to the ACA.

5.2. National Policy

- Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030
- Climate Action Plan 2023, as updated

5.3. Regional Policy

- Regional Spatial and Economic Strategy for the Southern Region

Regional Policy Objective (RPO) 137: Mobile Infrastructure

It is an objective to strengthen the continued delivery of high-speed, high-capacity digital and mobile infrastructure investment in our Region and strengthen cross regional integration of digital infrastructures and sharing of networks.

5.4. National Guidance

- Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996), and associated Circular Letter PL07/12 (19th October 2012)
- Department of Arts, Heritage and the Gaeltacht's Architectural Heritage Protection Guidelines for Planning Authorities (2011)

- Department of Environment, Heritage and Local Government's National Policy on Town Defences (2008)

5.5. **Natural Heritage Designations**

The subject site is not located within any designated site. The Sovereign Islands Special Protection Area (SPA) (Site Code 004124) is located approximately 6km southeast of the subject site. James Fort, a proposed Natural Heritage Area (pNHA) is located approximately 1km south of the subject site.

5.6. **Environmental Impact Assessment (EIA) Screening**

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a preliminary examination or screening determination. Refer to Appendix 1.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A first party appeal by the Applicant was lodged to the Board on 28th August 2023. The grounds of appeal can be summarised as follows:

- The grounds of appeal are provided for under Section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, i.e. regarding a material contravention.
- The subject application is the third application after permissions were refused for a 20 metre and 18-metre-high structure. Every effort has been made to reduce the impact of the infrastructure. This reduction has been at the cost of sharing the structure with other communications providers.
- The monopole complements the existing exchange building, a large utility building and was not fully considered in accordance with its surroundings.

- The site justification report has calculated that over 14,000 people within the catchment of the backhaul sites can potentially benefit from the proposed installation.
- Kinsale has a large reliance on tourism and requires modern mobile data services. The structure will play an important role in the current and future economy of the town. Coverage level maps are provided detailing coverage levels with and without the proposed development.
- The location of the fencing and gates can be revised and a revised fence type has been outlined which reduces the visual impact of the proposed development. The monopole has been moved by 2 metres from the historic wall and revised plans have been provided.
- The AHIA suggests the use of neutral and muted colours to lessen the visual impact, with dark brown and green options suggested.
- There will be no physical impact on the ACA or protected buildings of Kinsale and measures can be taken to protect any subsurface archaeological remains of the land, as stated in the AHIA. Noted that the site has been developed previously for the exchange with underground cabling.
- The area of high value landscapes in Cork is substantial and can prove difficult to avoid these locations for such developments.
- 8 photomontages provided. It is acknowledged that views will be apparent in a small number of locations. However, a balance must be achieved between the visual impact and provision of service.
- The monopole is less conspicuous than the existing lattice mast in the centre of the town.
- The proposal meets the aims and ambitions of the Development Plan (Section 13.18, objective ET 13-28, section 13.8.3 and section 8.14). The development plan does not refer to the DoEHLG 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996'. The development and location comply with these guidelines.

- A slim monopole design can only cater for a single set of antennae and one dish and such a design would not secure the backhaul facility needed.
- No evidence that telecoms infrastructure has a devaluation of property. A negative impact can arise where there isn't a benefit of coverage and data services. Reference is made to a number of An Bord Pleanála cases where they have ruled that there is no evidence of devaluation of properties.
- It is respectfully requested that the Board grant permission for the proposed structure.
- A number of letters of support provided outlining, inter alia, poor mobile connectivity within Kinsale and the surrounding area. The support letters state that the site represents the most logical location next to the Eir exchange, the height is at the lowest possible height in order to meet necessary conditions and the people and businesses rely on mobile connectivity.

The grounds of appeal are accompanied by the following:

- An updated site justification report (Appendix 1 of appeal documentation);
- Revised drawings (Appendix 2);
- Letter of support with multiple signatures from local residents (Appendix 3).

6.2. Planning Authority Response

No response was received from the development management section. A response was received from the Broadband Officer who considered the reasons for refusal outside the scope of their comments. However, they stated that the completion of the development will have an impact on the coverage deficit.

6.3. Observations

A total of 3 no. observations were received from Georgina Sutton, David Bowden and Siobhan Bowden. Their issues and concerns can be summarised as follows:

- The area is in an architectural and archaeological conservation area. The development would be detrimental to the special character and beauty of protected monuments and will destroy skylines which are part of the fabric of

the built heritage of the town. A full archaeological and architectural report needs to be carried out to assess the damage such a structure would have on the heritage town of Kinsale.

- The site is within an established residential area and would seriously injure residential amenity and depreciate property values.
- Telecommunication masts are extremely likely to have a negative impact on the health and safety of residents. There is emerging evidence of harmful biological effects from radio frequency electromagnetic field exposure from 5G masts. A full health and safety report needs to be carried out.
- An environmental report needs to be carried out to assess the damage on local flora and fauna.
- The development would destroy the scenic amenity and scenic view from Catholic Walk. Kinsale is a tourist town and the area is used for walking, cycling and as a tourist trail.
- The main negative visual impact is the nest of antennae and microwave dishes used for backhaul links.
- Inaccuracies are raised, as height of the existing wooden pole is the same as the apex of the roof. The lower set of antennae will be blocked by the exchange building and “the rock” which rises to 24 metres. Concerns that the pole will be required to be increased in height.
- Concerns that more monopoles will be required and therefore it is necessary to promote the adoption of newer slim monopoles.
- The applicant has never met with the people of Kinsale to discuss the proposal.
- The need is recognised but not at the cost of Kinsale’s beauty and history.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, after an inspection of the site, and having regard to relevant local, regional and national policies and guidance, I consider that the main issues to be considered in this appeal are as follows:

- Principle of the Development
- Site Justification
- Visual Amenity
- Residential Amenity
- Other Issues
- Appropriate Assessment (AA) Screening
- Material Contravention

7.2. The Board should note that this appeal relates to the third application for a telecommunications structure onsite, after previous refusals by the planning authority (PA) for a 20-metre-high monopole (PA ref. 20/5337) and a 18 metre high monopole (PA ref. 20/6048).

Principle of the Development

7.3. The subject site is located within lands zoned as 'Existing Residential/Mixed Residential and Other Uses' under the Cork County Development Plan 2022-2028 (CDP). This zoning seeks to protect and/or improve residential amenity and uses that do not support, or threatens the vitality or integrity of, the primary use of these existing residential/mixed residential and other uses areas will not be encouraged. The Board should note that an existing exchange building is located on the subject site and therefore the principle of such telecommunications infrastructure is already established.

Site Justification

7.4. The Applicant submitted a site justification report as part of the application and appeal documentation. It is stated that the installation of a new 15-metre-high monopole will provide for increased structural capacity to install radio link dishes to allow backhaul

transmission capacity from surrounding sites to be aggregated back to this high capacity fibre point of collection within the existing exchange. The 15-metre height provides a line of sight range to surrounding sites to enable them to be connected via point to point radio link dishes to the high capacity network. It is stated that this will result in higher speeds for customers through 4G and 5G networks. The increase in height also provides for the ability to install directional sector antenna which allow more advanced 4G and 5G networks to be deployed in the town for the first time.

- 7.5. The Applicant states that three sites within the Kinsale area will be directly connected to the fibre network within the exchange via the proposed development which will allow capacity of these three sites to be uplifted from 800Mbps to 5000Mbps. Three further sites will be connected through a secondary path to the exchange allowing capacity to be uplifted from 300Mbps to 1000Mbps. There will be an increase in data speeds as a result of the proposed development. The population covered is calculated as 14,355 persons.
- 7.6. Having regard to this justification report, I consider that the proposed development would be in accordance with Section 13.18 of the CDP, subject to my assessment below. I also note that there have been a number of letters of support for the proposed development provided as part of the appeal documentation.

Visual Amenity

- 7.7. The PA's first and second reasons for refusal stated that the development would materially affect the character of protected structures, be seriously injurious to the Architectural Conservation Area (ACA) and impact on recorded archaeological monuments. I note the submitted Architectural Heritage Impact Assessment (AHIA) assesses the impact on built and archaeological interests, including on the ACA, the town walls RMP (ref. C0112-034002), the Church of St. John (RPS ref. 2305) and Mount Carmel Catholic Church (RPS ref. 2303).
- 7.8. I note the photomontages submitted with the application and note that the structure will be visible from a number of locations within the town. A number of mitigation measures are proposed within the AHIA, such as additional screen planting along the east boundary of the site, use of neutral and muted colour materials and archaeological monitoring if any subsurface works are required. The AHIA concludes

that the development does not adversely affect the ACA or any upstanding archaeological or architectural heritage.

Visual Impact

- 7.9. I note the observation in relation to the impact of the development on the scenic amenity and scenic views from Catholic Walk. I note that Catholic Walk is not designated as a scenic route under the CDP with the nearest scenic route (S63) located on the Bandon Road approximately 350 metres west of the site. Having visited the site, I acknowledge that the site would be viewed from the lower part of Bandon Road, however, I note that there will be no viewpoints of the structure from the designated scenic route. The structure will be visible along Lower Catholic Walk and Friars Gate.
- 7.10. Having regard to the submitted photomontages I acknowledge that there will be a visual impact due to the nature of the proposed development. I note viewpoint 8 showing the location of the monopole to the rear of the terraced properties on Friar Street. I consider that there will be a visual impact from this viewpoint at Church Square. However, it is my view that due to the topography of adjoining lands (i.e. with lands rising to the north of the site), to the monopole design, to the use of muted colours and to the proposed 15 metre height, the proposed development will not dominate the skyline of the town and would not result in an unacceptable visual impact.
- 7.11. Whilst I note that the site is located within a high value landscape (HVL) area which formed part of the reason for refusal, I note that the entire town and environs of Kinsale are also located within this HVL area. However, it is my view that the site justification and wider benefits of a higher capacity network outweigh the visual impact on the HVL. Furthermore, I note that a lattice type tower serving the Garda Station approximately 150 metres south of the site, which is also in the HVL, is more obtrusive than the subject monopole design.

Built Heritage

- 7.12. The Board should note that the proposed development is not located within the curtilage of a protected structure (PS) nor does it adjoin the curtilage of a protected structure. The PA's main reasons for refusal were in relation to the impact of the development on the character and setting of the protected structures and on the ACA.

- 7.13. I note Section 13.7 of the 2011 Guidelines which provide guidelines on developments affecting the setting of a protected structure or an ACA. Due to the topography of adjoining lands and proximity to the protected structures, particularly PS ref. 2,303 approximately 70 metres east of the site, PS ref. 2,305 approximately 50 metres east of the site, and PS ref. 2,306 approximately 60 metres west of the site, I acknowledge that the structure will be visible from the grounds of these protected structures. I note the photomontages submitted with the application, including viewpoint 6 which is taken in front of the Mount Carmel Church (PS ref. 2,303).
- 7.14. Notwithstanding this, having regard to the site justification for the development, to the siting within an existing Eir exchange, to the existing lattice type tower to the south of the site and to the proposed monopole design to a height of 15 metres, I am satisfied that the development will not adversely affect the special interest of these protected structures or the character of the ACA. Furthermore, I consider a muted colour finish to the monopole will help lessen the visual impact of the development, as shown on Photomontage View 6. Having regard to this, it is my view that the proposed development would not contravene objectives HE 16-14 and HE 16-18 of the CDP.

Archaeological Heritage

- 7.15. I note that the PA's archaeologist recommended refusal due to the negative visual impact on the setting of the archaeological monuments, in particular the town defences and the wider historic townscape.
- 7.16. I note that the appeal documentation has submitted revised plans which has moved the monopole a further 2 metres from the town wall and a revised fence type of wooden fencing is now proposed. I also note that the AHIA recommends archaeological monitoring if subsurface works are proposed. I note that no direct works are proposed to the existing town walls.
- 7.17. Whilst I note that Section 4.3 of the 1996 Guidelines recommends the avoidance of siting next to protected structures and archaeological monuments, I consider that the proposed siting is the most logical location due to the existing Eir exchange building onsite. Having regard to this, to the proposed archaeological monitoring and to the use of muted colours, I am satisfied that the development and subsequent mitigation measures would protect the archaeological sites and monuments and would not negatively impact the historic landscape. Therefore, it is my view that the proposed

development would not contravene objectives HE 16-2, HE16-4, HE 16-7 and KS-GO-05 of the CDP.

Residential amenity

- 7.18. The PA's third reason for refusal was in relation to the location of the structure within an established residential area and concerns that it would devalue properties and seriously injure their residential amenity. I note that a number of observations raise concerns regarding the impact of the development on their residential amenity.
- 7.19. I note that the monopole structure will be located approximately 7 metres from and above residential properties to the south of the site and approximately 25 metres from the residential properties to the north along Lower Catholic Walk. Having regard to the proposed monopole design and to its 15 metre height, I am satisfied that there would be no significant overbearing effect.
- 7.20. Furthermore, I note that the 1996 Guidelines and Circular PL 07/12 specify no set distances with regards to the proximity of such structures to residential properties. I note that the 1996 Guidelines state that masts should only be located in a residential area as a last resort or, if it is necessary, on a site already developed for utilities.
- 7.21. I note that there are no significant noise issues associated with the operation of telecommunications infrastructure. I have no significant concerns regarding any potential impact on overshadowing or loss of light having regard to the monopole design and 15 metre height. I acknowledge that there may be some impact on residential amenity during the construction phase, however, this will be short term in nature and thus would not be significant.
- 7.22. Having regard to the above and to the location of the development within an existing Eir exchange facility, I am satisfied that the proposed development would not result in an adverse impact on the residential amenities of the area. Furthermore, I consider that there is no evidence that a development of this nature would result in a devaluation of properties in the area.

Other Issues

- 7.23. I note the concerns of the observers regarding health and safety. Notwithstanding these concerns, the Board should note that, as described in Circular PL 07/12, planning authorities should be primarily concerned with the appropriate location and

design of such structures and do not have the competence for health and safety matters which are regulated by other codes.

- 7.24. With regards to the concerns in relation to the impact on biodiversity, I note that the subject site is brownfield in nature. I do not consider that the replacement of a 12-metre-high structure with a 15-metre-high structure on an existing site largely consisting of hard surfacing would significantly impact any flora or fauna in the area.

Appropriate Assessment (AA) Screening

- 7.25. The subject site is not located within a European Site. The nearest designated site is the Sovereign Islands Special Area of Conservation (SPA), which is located approximately 6km southeast of the subject site. The Qualifying Interest (QI) of this SPA is the Cormorant (*Phalacrocorax carbo*) [A017]. The Conservation Objective is to maintain or restore the favourable conservation condition of the bird species. Having regard to the brownfield nature of the development and distance to the SPA, I am satisfied that no ex-situ effects will occur.
- 7.26. Having regard to the nature of the development, to the absence of any hydrological connection to any European Site and to the separation distance with regards to any other ecological pathways, I consider that the proposed development, individually or in-combination with other plans or projects, would not be likely to have a significant effect on any European Site, in view of the said sites' conservation objectives.

Material Contravention

- 7.27. I note that the PA's reasons for refusal state that the proposed development would materially contravene objectives HE 16-2, HE 16-4, HE 16-7, HE 16-14 and HE 16-18 of the CDP and thus materially contravene the CDP. I also note that the Applicant bases the grounds of appeal on Section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended. However, I note that the subject zoning does not prohibit telecommunications infrastructure subject to the protection of residential amenity, which I have assessed above. Having regard to this and to the general nature and text of these objectives and to my assessment above, I am satisfied that a material contravention does not arise in this instance.
- 7.28. Notwithstanding this conclusion, I have assessed the development against the four criteria outlined under Section 37(2)(b) of the Planning and Development Act 2000, as

amended, which is the criteria that allows the Board to grant permission in the event of a material contravention.

(i) The proposed development is of strategic or national importance

7.29. I consider that the proposed development is not 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

7.30. I consider that there are no conflicting objectives or unclear objectives in the CDP, as the proposed development is concerned.

(iii) Permission for the proposed development should be granted having regard to 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

7.31. Regional Policy Objective (RPO) 137 of the Regional Spatial Economic Strategy seeks to strengthen the continued delivery of high-speed, high-capacity digital and mobile infrastructure investment in the Region and strengthen cross regional integration of digital infrastructures and sharing of networks. The Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (July 1996) and Circular Letter: PL 07/12 support government policy on the roll out of a high-quality telecommunications service and provide guidelines on design and siting including in terms of proximity to protected structures and archaeological sites and monuments. Having regard to the contents of these documents, I do not consider that they would warrant an overriding of the CDP policies and objectives regarding the protection of built heritage and archaeological assets.

(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

7.32. The CDP was adopted in 2022 and having regard to the pattern of development in the area, I note that there are no permissions granted in the area for the erection of such infrastructure.

8.0 Recommendation

I recommend that permission is granted subject to conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the National Planning Framework, the Regional Spatial and Economic Strategy for the Southern Region, the Cork County Development Plan 2022-2028, the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996) and associated Circular Letter PL07/12, to Section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, to the location and setting of the site within an existing Eir Exchange within the Architectural Conservation Area, to the topography of adjoining lands, and to the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities or the visual amenities of the area and would not impact negatively on the Architectural Conservation Area, Protected Structures and archaeological assets. It is considered that the proposed development would be in accordance with Section 13.18 of the Cork County Development Plan 2022-2028 and objective ET 13-28 which seeks to facilitate the delivery of high quality digital and mobile telecommunications throughout Cork County. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	(a) The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on 13 th June 2023 and submitted to An Bord Pleanála on 28 th August 2023, 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
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	<p>commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>(b) The development shall be sited in accordance with the plans submitted to An Bord Pleanála on 28th August 2023.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Prior to commencement of the development, details of the proposed colour scheme for the telecommunications structures and ancillary structures, and details of the fencing design and finishes, shall be submitted to, and agreed in writing with, the planning authority.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
3.	<p>No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage of the site.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
4.	<p>Surface water and drainage arrangements for the proposed development shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>

5.	<p>(a) in the event of the proposed structure becoming obsolete and being decommissioned, the developer shall, at its own expense, remove the mast, antenna and ancillary structures and equipment.</p> <p>(b) The site shall be reinstated upon the removal of the telecommunication structure and ancillary structures. Details of the reinstatement shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of such works.</p> <p>Reason: In the interest of orderly development.</p>
6.	<p>The developer shall provide and make available at reasonable terms the proposed support structure for the provision of mobile telecommunications antenna of third-party licenced telecommunications operators.</p> <p>Reason: To avoid a multiplicity of telecommunications structures in the area, in the interest of visual amenity and proper planning and sustainable development.</p>
7.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development,</p> <p>(b) employ a suitably qualified archaeologist who shall monitor all ground excavation works, and</p> <p>(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p>

	Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.
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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.

Gary Farrelly
Planning Inspector

28th March 2024

Appendix 1 - EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-317890-23		
Proposed Development Summary	Removal of existing 12-metre-high telecommunications timber pole and erection of 15-metre-high monopole telecommunications support structure with antennas, dishes and associated equipment		
Development Address	Eir Exchange, Friars Gate, Kinsale, County Cork		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No	X		No EIAR or Preliminary Examination required
Yes			Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No			Preliminary Examination required
Yes			Screening Determination required

Inspector: _____

Date: _____