



An
Bord
Pleanála

Inspector's Report

ABP-318136-23

Development	Erection of a 15 metre high telecommunications monopole and removal of an existing 7 metre high wooden pole
Location	Eir Exchange, Cliff estate, Baltimore, County Cork
Planning Authority	Cork County Council
Planning Authority Reg. Ref.	23/398
Applicant(s)	Eircom Ltd (t/a Eir)
Type of Application	Planning Permission
Planning Authority Decision	Refused
Type of Appeal	First Party
Appellant(s)	Eircom Ltd (t/a Eir)
Observer(s)	1. John Murphy 2. Helen Collins & Others
Date of Site Inspection	29 th May 2024
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 village of Baltimore, County Cork. The site comprises of an existing Eir exchange building which is built to a ridge height of 6.1 metres, a 7-metre-high existing timber pole to the north of the building and emergency services equipment, operated by Tetra, to the south of the building, which measures approximately 10.4 metres above ground level. Access to the site is via an existing access track and pedestrian gate which is taken off Cliff Estate to the northwest.
- 1.2. The immediate area is characterised by residential properties. The nearest property is a detached dwelling located approximately 12 metres to the east of the site and further detached properties are located approximately 35 metres to the east, south and southwest of the site. Semi-detached properties within Cliff Estate are located approximately 30 metres to the northwest, approximately 35 metres to the west and approximately 25 metres to the north of the site. The ground level of the site is located approximately 5 metres above the level of the public road within Cliff Estate.
- 1.3. The site is located approximately 80 metres east of St. Matthews Church, which is a protected structure under the Cork County Development Plan 2022-2028 (RPS ref. 1,250). Dunashed Castle (RPS ref. 809) is located approximately 120 metres north of the site.

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 7-metre-high telecommunications timber pole. The structure is proposed to be enclosed in wooden security fencing.
- 2.2. The appeal documentation is accompanied by the following:
 - Views/photomontages from 9 viewpoints, and
 - Site Justification Report

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority (PA) issued a notification to refuse to grant permission for the proposed development, by Order dated 5th September 2023, for the following reasons:

- 1. The proposed development, by reason of its location within a village centre and having regard to the height and proximity of the proposed structure relative to existing residential properties, would seriously injure the residential amenities and depreciate the value of nearby properties in the vicinity, by reason of proximity and visual intrusion and would, therefore, be contrary to the proper planning and sustainable development of the area.*
- 2. The proposed development, by reason of its nature, height, scale and location within the 'high value landscape' area, would result in a visually intrusive development, which would seriously injure the visual amenities of the area and as such would contravene materially Objective DB-02, as set down in the Cork County Development Plan 2022 which seeks to protect and enhance the attractive coastal setting and landscape character of the village. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

Planning Reports

- The area planner's (AP) report assessed the development in terms of the visual impact and the impact on residential properties. The report noted that the village does not have an ACA but does hold a number of important heritage buildings including the Anglican Church and Dunasead Castle. The AP report recommended a single reason for refusal. The Senior Executive Planner's report agreed with the visual impact assessment of the area planner and included a second reason for refusal due to concerns of the impact of the development on the visual amenity of the village and heritage buildings.

Other Technical Reports

- Area Engineer's report (dated 25/08/23) – This report considered that there were no engineering issues and recommended conditions.
- Environment report (dated 17/08/23) – 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 significant number of third-party observations/submissions were received on the application. Several issues were raised including, inter alia, concerns in relation to visual impact and lack of visual justification, proximity to residential properties and concerns regarding health and safety.

4.0 Relevant Planning History

PA Ref. 19/357 (subject site)

Permission was granted to Tetra Ireland Communications Ltd to retain an existing 3.5-metre-high support pole.

PA Ref. 09/117 (subject site)

Permission was granted to Tetra Ireland Communications Ltd for attachment of 1 no. 3.5m support pole to hold 1 no. 3.1m antenna to an existing eircom building to be used by the Emergency Services.

5.0 Policy Context

5.1. Cork County Development Plan 2022-2028

Volume 5 West Cork

Paragraph 2.15.1

The strategic aims for Baltimore are to encourage the consolidation of the village within its rural setting, preserve the unique architectural character and coastal landscape setting of the settlement and to promote sympathetic development in tandem with the provision of services.

Objective DB-02

Protect and enhance the attractive coastal setting and landscape character of the village.

Volume 1 Main Policy Material

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).

GI 14-9: Landscape

a) Protect the visual and scenic amenities of County Cork's built and natural environment.

d) Protect skylines and ridgelines from development.

GI 14-12 General Views and Prospects

Preserve the character of all important views and prospects, particularly sea views, river or lake views, views of unspoilt mountains, upland or coastal landscapes, views of historical or cultural significance (including buildings and townscapes) and views of natural beauty as recognized in the Draft Landscape Strategy.

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.

5.2. National Policy

- Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030
- Climate Action Plan 2024

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)

5.5. Natural Heritage Designations

The subject site is not located within any designated site. The Roaringwater Bay and Islands Special Area of Conservation (SAC) (Site Code 000101) is located approximately 120 metres west of the subject site. The Sheep's Head to Toe Head Special Protection Area (SPA) is located approximately 650 metres southwest 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 screening determination. Refer to Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was lodged to the Board on 2nd October 2023. The grounds of appeal are 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 infrastructure will provide for 2 operators, Vodafone and Eir, and will be clustered with emergency services operator, Tetra.
- An overview is provided in relation to the market operators, technology, lines of sight that are necessary between a cell and base station and importance for 5G technology.
- There are no existing alternative structures in the wider area. Moving further south would require a taller structure and being too far away would lose the target coverage catchment.
- The proposed upgrade will meet the demands of the local residents, business and the tourism industry and is vital for the economy of Baltimore.
- The infrastructure can be painted dark brown/green and the cables can be located at ground level to mitigate any visual impact.
- A number of Comreg outdoor coverage maps of Baltimore for Eir are provided showing 2G, 3G and 4G coverage. Indoor coverage maps are also provided showing limited lands and this demonstrates the need for the services.
- Vodafone have provided a site justification report under Appendix 1. The existing structure and timber pole height limit the range of coverage. The new structure will also provide increased structural capacity for Vodafone and additional operators and maps are provided showing increased 2G/3G/4G levels as a result of the upgrade.
- Vodafone's next nearest site is 8.5km away on Cape Clear Island and there is a low density of telecommunications infrastructure which is leading to congestion issues.
- Vodafone have reviewed other options such as Casey's Hotel, commercial premises in the square and at the driving school and were ruled out due to height and elevation. A greenfield site was considered suitable but would require a 30 metre high structure. Therefore, the subject option is the best option.
- There is a history of telecommunications use at this utilities site.

- The high value landscape area covers a substantial area of Cork and is unrealistic for telecommunications infrastructure.
- The development does not contravene the 1996 Guidelines and does not conflict with sensitive landscape designations. The PA failed to consider points within the 1996 Guidelines.
- Whilst the 1996 Guidelines state that only as a last resort should free standing masts be located within the immediate surrounds of towns or villages, the new technology now requires it necessary.
- The site is an existing Eir compound and telecommunications facility and the siting is in accordance with the 1996 Guidelines.
- A number of photomontages are provided as part of Appendix 2 showing 9 viewpoints. The views will be intermittent due to topography, roadside flora, the built environment and the direction of travel.
- There is no evidence that such infrastructure devalues property as previously ruled by the Board. With regards to distances to residential properties reference is made to ABP 02.243341.
- Precedent is quoted in Drinagh (309594-21), Drimoleague (313908) and Crosshaven (2006183).
- The proposal meets the requirements of the development plan and 1996 Guidelines and it is respectfully requested that the Board grants permission.

6.2. Planning Authority Response

No response to the grounds of appeal was received from the planning authority.

6.3. Observations

A total of 2 no. observations were received from John Murphy, and Helen Collins and other objectors. John Murphy's issues and concerns are summarised as follows:

- There are suitable alternative sites at Gortadrohid on Ringarogy and on several of the high ground locations to the south and southeast of the village.

- Mobile and broadband coverage in the Baltimore area are good and the introduction of 5G will have no effect on that.
- The existing vegetation will not conceal a 15 metre mast as the present 7 metre mast is fully visible from houses at the southwest end of Cliff Estate.
- There would be a negative effect on property values in the area.
- There are serious concerns regarding the health implications of such structures and a quote from Professor Tom Butler of UCC is provided. A list of studies are provided.
- Commercial financial considerations should not supersede the welfare and amenity of residents and business owners in the area.

Helen Collins and Others' issues and concerns are summarised as follows:

Request for Oral Hearing

- An oral hearing is requested to establish the relationship between Towercom Limited, as agent, with Eircom Limited, as appellant, as the identity of the actual developer is of critical importance. If Towercom Limited is the developer and intended operator, it is not in its interest as agent and developer to undertake the required impartial assessment of alternative sites, as required under Ministerial Guidelines.
- Eircom Limited does not have control over the land required to implement this permission. Using the public road as a compound and setting down area in the absence of access to and sufficient ground on the appeal site is not an option. This lack of access and granting of permission on the understanding that it would make available to other operators would deny other operators from providing masts on alternative sites with no ownership constraints.
- It would be inappropriate for the Board to make its decision having regard to Section 34(13) of the Planning and Development Act 2000, as amended.
- As the appeal submission is highly technical it is requested that an oral hearing takes place. The maps and diagrams submitted are unclear and inconclusive in determining existing and proposed coverage and conflicts with other information available on the mobile coverage Ireland website.

- Clarification is requested on the justification to facilitate the needs of the emergency services as they have previously obtained planning permission for the equipment they require onsite.

Material Contravention

- The Board can only grant permission in material contravention of the development for 4 reasons.
- The applicant has not demonstrated that this site is the optimum and only site available and whilst the delivery of national phone and broadband coverage is of strategic or national importance, the siting of the development on such a central, elevated and prominent site is not. The mast will erode the attractive coastal setting and the setting of the harbour, historic streetscape and building therein and the setting of the 3 no. protected structures.
- There are no conflicting objectives in the development plan. It is regrettable that there is no reference to the ministerial guidelines in the development plan.
- The Appellant has not demonstrated whether the application site is the optimum or only site around Baltimore to meet the regional spatial and economic strategy objectives. There are no Section 29 ministerial directives relevant to the proposed development. The section 28 ministerial guidelines provides that only as a last resort should free standing masts be located in the immediate surrounds of smaller towns and villages or in residential areas.
- The proposed mast, by reason of its location, scale and design, is out of keeping with the pattern of development in the area and no permission has been granted for a similar mast in a similar coastal location within a high value landscape (HVL) since the making of the development plan. Appeal ref. 313908 was not a coastal location and outside the HVL.
- It is questioned why the Appellant did not provide justification in the appeal as to why it considered the planning authority was incorrect in determining that the development was a material contravention of the development plan.
- It is considered that the Board have no authority to grant permission in material contravention of the Plan.

Visual Impact

- The site is in a coastal location within a very high sensitivity landscape which is fragile and susceptible to change. No landscape or visual impact assessment was submitted as required by Section 14.8.9 of the Plan.
- A visual impact appraisal involving a series of photomontages has been presented. It is considered that it demonstrates the negative visual impacts of the development on the immediate surroundings, streetscape and protected structures in the vicinity and how it will detract from the village character, heritage and amenities.
- The Board should not accept the Appellant's submitted photomontages as a substitute for an independent professionally prepared and certified LVIA.
- An analysis of the submitted photomontages are provided. It is considered that they are of limited assistance in understanding the visual impact of the mast around the village and not a substitute for a LVIA.

Coverage & Alternative Sites

- As Three provides good indoor and outdoor coverage on the 3G network, an alternative would be to relocate to the Three base station and provide an upgrade or replacement of that station.
- Due to the cliff to the north of the site, this will act as a physical barrier in providing 5G outdoor coverage to most properties along the south village main street. Such coverage will not extend much beyond the Cliff Estate and the houses along New Road to the south. Elsewhere in Baltimore there will be no improvement to existing coverage.
- Baltimore is served with a 1Gb high-speed fibre optic broadband service and allows anyone connected to receive indoor phone coverage without resorting to 5G mobile phone services.
- The level of the site is around 19mAOD. All the lands to the southeast of the site are more elevated and could have been investigated for alternative locations. The lifeboat station, the old boatyard or Sherkin lighthouse could have been examined. The appeal site cannot be considered as a last resort, as outlined in the ministerial guidelines, if no other sites have been investigated. The siting has been based on ownership rather than site suitability.

Proximity to housing and devaluation

- The subject mast is only 17 metres from the nearest house and less than 6 metres from the garden. The proximity to houses in appeal case 247800, to which the Appellant references, was 130 metres. Ref. 216361 was also referenced and that particular mast was 250 metres from the nearest house.
- Reference is made to appeal refs. 315591 and 310371 which was for a mast in Ballyjamesduff, County Cavan, which was only 10 metres from the nearest house and was refused due to the impact on residential amenity and due to the absence of a visual impact assessment.
- The Observer included a submission from a local valuer who stated that the property would be devalued due to the proximity of the mast.
- Reference is made to the mast in Drinagh, approved under ref. 309594, located 7 metres from houses either side and highly visible within the village.
- Devaluation of property is a non-compensatable reason for refusal and therefore is a relevant planning consideration.

Other Matters

- The Board is requested to consider all of the matters raised in the objection letter by the Observer as part of the grounds of appeal.
- The Board is requested to uphold the decision of the planning authority.

The observation is accompanied by the following:

- Guidelines for Landscape and Visual Impact Assessment (3rd Edition)
- Visual impact appraisal
- Letter from local estate agent
- Maps of mobile coverage in the area

7.0 Assessment

- 7.1. I note the observer's request for an oral hearing (OH), however, the Board should note that there is no provision for an observer to request an OH for such an application. Notwithstanding this, I do not consider that there is a need for an OH as I am satisfied that the information on file is adequate for the Board to address and determine all the relevant issues.
- 7.2. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the planning authority and having inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:
- Site Justification & Principle of the Development
 - Visual Impact on setting of Baltimore Village
 - Residential & Visual Amenity
 - Other Issues
 - Material Contravention
- 7.3. The Board should note that Baltimore is designated as a village within the Cork County Development Plan 2022-2028 (CDP) with a population of 323 persons and is heavily reliant on tourism with it being the main activity of the village. The strategic aim for the village is to, inter alia, preserve the unique architectural character and coastal landscape setting of the settlement and to promote sympathetic development. Paragraph 2.15.27 of the CDP (Volume 5) states that it is important that any development maintains the integrity of the surrounding landscape given the coastal location of the village overlooking Baltimore Bay and also states that it is important that the village's rural character, architectural heritage and its other heritage and natural and coastal amenities are maintained, enhanced and not compromised. This is reflected in objective DB-02 which seeks to protect and enhance the attractive coastal setting and landscape character of the village.

Site Justification & Principle of the Development

- 7.4. As part of the first party's grounds of appeal, it is stated that the location of the development is based on the required target coverage catchment of the village and the fact that there are existing economic facilities and utilities that the operator can take advantage of. It is stated that there are no alternative structures within the wider area and moving further south would require a taller structure. A number of coverage maps are provided within the Vodafone site justification report under Appendix 1 of the grounds of appeal showing a large increase in the area for very good 4G coverage as a result of the 15-metre-high structure throughout the village and surrounding lands, including within Baltimore Bay and nearby islands. The report assessed a rooftop installation at Casey's Hotel, the various commercial buildings within the square of the village and at the Baltimore driving school, however, they were ruled out due to the pitch of the roofs, the locations not being prominent areas and on issues with ground heights. A greenfield installation to the north of the site was also assessed, however, due to its ground height it was stated that it would require a 30-metre-high structure.
- 7.5. The Board should note that regional policy objective 137 of the Regional Spatial and Economic Strategy for the Southern Region and objective ET13.28 of the CDP seek to facilitate and strengthen the delivery of high speed, high-capacity telecommunications infrastructure and section 8.14 of the CDP acknowledges that good digital connectivity is vital to the rural economy.
- 7.6. The Board should also note that Section 4.3 of the 1996 Guidelines for Planning Authorities states that only as a last resort should masts be located within or in the immediate surrounds of smaller towns or villages. However, if such a location becomes necessary, sites already developed for utilities should be considered and the support structure should be kept to the minimum height consistent with effective operation.
- 7.7. Having regard to the information submitted with the application and appeal, and notwithstanding the observation which states that the siting is based on ownership rather than suitability, I am satisfied that sufficient justification has been provided by the applicant to site the proposed development within the village of Baltimore and within the subject site in order to achieve its target catchment. The site accommodates an existing telecommunications exchange and therefore the principle of

telecommunications infrastructure is already established. I am satisfied that the proposed development complies with the smaller towns and villages last resort test as outlined in Section 4.3 of the 1996 Guidelines. Furthermore, the structure is to be co-used by Eir and Vodafone and the subject site also currently accommodates emergency operator Tetra. The structure has been designed to support more than a single operator which I consider to be in accordance with Section 4.5 of the 1996 Guidelines.

Visual Impact on setting of Baltimore Village

- 7.8. The planning authority's (PA) second reason for refusal was in relation to the visual impact of the development on the coastal setting and landscape character of the village, due to the nature, height, scale and location within a high value landscape (HVL) area. The PA considered that the development would materially contravene objective DB-02 of Volume 5 of the CDP in this regard.
- 7.9. I note the appellant's comments in relation to the extent of the HVL area designation, to the recommended external finishes of the proposed structure and to the submitted photomontages and their conclusions. I also note the observer's comments regarding the submitted photomontages being of limited assistance in understanding the visual impact of the structure and their concerns on the absence of an independent landscape and visual impact assessment (LVIA).

Photomontages

- 7.10. A total of 9 viewpoints / photomontages have been submitted by the applicant as part of the appeal documentation. Having reviewed this documentation, the Board should note that I have concerns with the photomontages due to the absence of certain key viewpoints, particularly to the west and southwest of the site. I note that no viewpoint has been included within the Cliff Estate directly to the northwest of the site, notwithstanding that it immediately bounds the site and its ground level is approximately 5 metres lower than the subject site. Furthermore, I note that no viewpoint is provided to the southwest of St. Matthews Church, i.e. in front of the playground, from Cove Hill to the southwest of the subject site where there are direct views of the village skyline, and also from other points within Baltimore harbour and Baltimore Bay where there are also direct views of the village skyline.

The Board should note that I am in agreement with the observer in that a landscape and visual impact assessment should have been undertaken for a development of this nature due to the scale of the development, the sensitive coastal location and rural character of Baltimore village.

Assessment of Visual Impact

- 7.11. I note the appellant's comments regarding the HVL designation of the CDP and I recognise that a significant portion of the county and coast falls within such designation. I also recognise that such telecommunications infrastructure would normally be visible due to its nature. However, the Board should note that any such development is still required to be sited without becoming unduly obtrusive. Whilst I acknowledge that an improvement in coverage would benefit tourism and local businesses and residents within the area this should not be to the detriment of the sensitive coastal landscape which is of significant amenity value to residents and tourists and which constitutes a valuable economic asset.
- 7.12. Whilst I note that the site currently accommodates telecommunications infrastructure, the subject site is substantially elevated (+28 AMSL). Having regard to this, to the proximity to the coast and bay, where there are key views of the skyline of the village that forms a significant part of the village's identity and attractiveness, to the 15 metre height and form of the proposed structure, it is my view that the proposed development would be obtrusive and negatively impact on the skyline of the village, particularly when viewed from the west and southwest, and therefore, would be seriously detrimental to the tourism and visual amenity of the village. I am not satisfied that the improvement in 4G coverage would sufficiently compensate for this significant loss of visual amenity. Furthermore, I am not satisfied that the use of muted colours on the structure, placing of cables at ground level or existing or proposed vegetative screening would mitigate such a significant visual impact.
- 7.13. Therefore, it is my view that the proposed development would be contrary to objective DB-02 (Volume 5), objective GI 14-9(a) & (d) and objective GI 14-12 of the CDP.

Built Heritage

- 7.14. The Board should note that the subject site is located approximately 80 metres east of St. Matthews Church of Ireland, which is a protected structure (PS) under the CDP (Ref. 1,250, Volume 2). As stated above under paragraph 7.10, I am not satisfied that

the submitted photomontage fully demonstrates the potential impact of the proposed development on the setting of this PS. Having inspected the immediate area of this PS, and having regard to the elevated nature of the subject site above the level of the church, to the 15 metre height of the structure and close proximity to the church, it is my view that the development would be seriously detrimental to the setting of the PS and therefore would be contrary to objective HE16-14(f) of the CDP in this regard.

- 7.15. Although the PA has not specifically referenced this objective within their reasons for refusal, the Board should note that I do not consider this to be a new issue, as it is my view that such setting forms part of the landscape character of the village which objective DB-02 seeks to enhance and protect.
- 7.16. I am satisfied that the proposed development would not be seriously detrimental to setting of the Dunashed Castle PS (Ref. 809), which is located approximately 120 metres north of the site, the former Baltimore fishery school (ref. 1,468) or the former railway station (Ref. 2,995) due to the distance between the sites and to the limited available viewpoints of the subject site within the context of the setting of these PS.

Residential & Visual Amenity

- 7.17. The PA's other reason for refusal was in relation to the impact of the development on the residential amenity of the area and depreciation of property values due to its proximity. I note that the subject site is located within an established residential area with Cliff estate properties located to the north and west and other residential properties surrounding the development to the south and east. The elevation of the subject site (+28 AMSL) is approximately 5 metres above the road level serving the Cliff estate properties (+23 AMSL). The siting of the structure will be approximately 30 metres from the property boundaries to the north and approximately 35 metres from the property boundaries to the west. Furthermore, the structure will be approximately 12 metres from an existing dwelling to the east.
- 7.18. Section 4.3 of the 1996 Guidelines states that only as a last resort should free standing masts be located in a residential area and if such a location becomes necessary sites already developed for utilities should be considered. I have already established under paragraphs 7.4 to 7.7 above that sufficient justification has been provided to locate the development within the village of Baltimore and within the subject site. Additionally, I

note that Section 2.3 of Circular PL 07/12 specifies no set distances with regards to the proximity of such structures to residential properties.

- 7.19. Notwithstanding the above, I do have concerns with the proximity of the site to residential properties, in particular to the properties within Cliff estate, due to the substantial difference in levels between these properties and the subject site. Having regard to this, to the proximity of the site to the Cliff Estate properties, to the 15-metre-high structure, and notwithstanding the existing telecommunications infrastructure in place which I do not consider to be visually dominant, it is my view that the proposed development would result in an overbearing and visually dominant form of development that would seriously injure the residential and visual amenities of the area. I do not consider that any level of planting, muted external finish of the structure or placement of cables at ground level would mitigate such an impact.
- 7.20. With regards to the refusal reason in relation to the devaluation of property values in the area, I note that the observer has included an opinion that the proposed development would result in a devaluation of property. However, the Board should note that there is no evidence that such telecommunications infrastructure would result in same.

Other Issues

- 7.21. I note the concerns of the observer 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.
- 7.22. Furthermore, the Board should note having reviewed the submitted drawings, the submitted site layout plan (dwg. No. TCK6407-PL-4.0) indicates a c. 1.5 metre width to the proposed monopole structure, however, the elevation drawings (dwg. No. TCK6407-PL-4.0) indicate a c. 0.8 metres width. I am unclear as to whether the site layout drawing accounts for the concrete base of the structure, however, if the Board are minded granting permission I recommend that a condition is attached that the width of the structure is consistent with the elevation drawings submitted.

Material Contravention

- 7.23. I note that the PA's reasons for refusal state that the proposed development would materially contravene objective DB-02 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. I also acknowledge the observer's comments regarding same. However, having regard to the general nature and text of objective DB-02, and to my assessment above, I am satisfied that a material contravention does not arise in this instance.
- 7.24. 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

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

I consider that Objective DB-02 of Volume 5 of the CDP is not clearly stated insofar as the proposed development is concerned. I would refer it as a subjective and aspirational objective.

- (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

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. Having regard to the broad and general content of these documents, I do not consider that they would warrant an overriding of the CDP policies and objectives regarding the protection of the setting of the village and built heritage.

- (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

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 Appropriate Assessment (AA) Screening

- 8.1. I have considered the project in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The subject site is located approximately 120 metres from the Roaringwater Bay and Islands Special Area of Conservation (SAC) (Site Code 000101) and approximately 650 metres from the Sheep's Head to Toe Head Special Protection Area (SPA) (Site Code 004156).
- 8.2. The qualifying interests of SAC 000101 are the following: large shallow inlets and bays [1160], reefs [1170], vegetated sea cliffs of the Atlantic and Baltic coasts [1230], European dry heaths [4030], submerged or partially submerged sea caves [8330], phocoena phocoena (Harbour Porpoise) [1351], lutra lutra (Otter) [1355] and halichoerus grypus (Grey Seal) [1364]. The qualifying interests of SPA 004156 are peregrine (Falco peregrinus) [A103] and chough (Pyrrhocorax pyrrhocorax) [A346].
- 8.3. Having considered the nature, scale and location of the proposed development, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Having inspected the site and having reviewed the Environmental Protection Agency's AA Mapping Tool, I note that there are no direct hydrological connections between the subject site and the European Sites.
 - Having regard to the separation distance from the European Site regarding any other potential ecological pathways and intervening lands.

- Having regard to the characteristics of the subject site which comprises of an existing telecommunications exchange building, to the built up nature of the surrounding area and distance to SPA 004156, I am satisfied that no ex-situ effects are likely.

8.4. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9.0 Recommendation

I recommend that permission is **Refused** for the following reasons and considerations.

10.0 Reasons and Considerations

1. Having regard to the height, scale and location of the proposed development on an elevated site within a high value landscape area within the settlement of Baltimore, as designated under the Cork County Development Plan 2022-2028, it is considered that the proposed development would be seriously detrimental to the visual amenity of the area including on the attractive coastal setting and landscape character of the village in which Objective DB-02 of the Plan (Volume 5) seeks to protect and enhance, and would be seriously detrimental to the setting of the protected structure, St. Matthews Church (Ref. 1,250). The proposed development would, therefore, contravene said Objective DB-02 and objectives GI 14-9(a)(d) (landscape), GI 14-12 (general views and prospects) and HE 16-14(f) (record of protected structures) of the Cork County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of its scale, position within an elevated site and location in close proximity to existing residential dwellings, including the Cliff Estate residential properties which are located at a lower level than the subject site, would result in an overbearing and visually dominant form of development that would seriously injure the residential and visual amenities of

the area. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

Gary Farrelly
Planning Inspector

13th August 2024

Appendix 1 - EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-318136-23		
Proposed Development Summary	Removal of existing 7-metre-high telecommunications wooden pole and erection of 15-metre-high monopole telecommunications support structure with antennas, dishes and associated equipment		
Development Address	Eir Exchange, Cliff Estate, Baltimore, County Cork		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		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)
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	