



An
Bord
Pleanála

Inspector's Report ABP-319350-24

Type of Application	Section 254 Licence
Development	Overhead electronic communications infrastructure and associated physical infrastructure
Location	Upper High Street, Killarney, Killcoolaght, County Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	02/2023/254
Applicant	Emerald Towers Limited
Planning Authority Decision	Refusal of Licence
Type of Appeal	First Party; Section 254(6)(a)
Appellant(s)	Emerald Towers Limited
Date of Site Inspection	15 th August 2024
Inspector	Gary Farrelly

1.0 Introduction

This is a First-Party appeal under Section 254(6)(a) of the Planning and Development Act 2000, as amended, with respect to Kerry County Council's refusal of a licence for overground electronic communications infrastructure and associated physical infrastructure.

2.0 Legislative Context

Planning and Development Act 2000, as amended

Section 2(1)

"public road" has the same meaning as in the Roads Act, 1993;

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and—

(a) where the context so admits, includes the land on, in or under which the structure is situate,

Section 254

(1) Subject to subsection (2), a person shall not erect, construct, place or maintain—

(ee) overground electronic communications infrastructure and any associated physical infrastructure,

on, under, over or along a public road save in accordance with a licence granted by a planning authority under this section.

(5) In considering an application for a licence under this section a planning authority, or the Board on appeal, shall have regard to—

(a) the proper planning and sustainable development of the area,

(b) any relevant provisions of the development plan, or a local area plan,

(c) the number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and

(d) the convenience and safety of road users including pedestrians.

(6) (a) Any person may, in relation to the granting, refusing, withdrawing or continuing of a licence under this section or to the conditions specified by the planning authority for such a licence, appeal to the Board.

(6) (b) Where an appeal under this section is allowed, the Board shall give such directions with respect to the withdrawing, granting or altering of a licence under this section as may be appropriate, and the planning authority shall comply therewith.

(7) Development carried out in accordance with a licence under this section shall be exempted development for the purposes of this Act.

Roads Act 1993, as amended

Section 2(1)

“public road” means a road over which a public right of way exists and the responsibility for the maintenance of which lies on a road authority;

“road” includes—

- (a) any street, lane, footpath, square, court, alley or passage,
- (b) any bridge, viaduct, underpass, subway, tunnel, overpass, overbridge, flyover, carriageway (whether single or multiple and whether or not designated for a particular class of vehicle), pavement or footway,
- (c) any weighbridge or other facility for the weighing or inspection of vehicles, toll plaza or other facility for the collection of tolls, service area, emergency telephone, first aid post, culvert, arch, gully, railing, fence, wall, barrier, guardrail, margin, verge, kerb, lay-by, hard shoulder, island, pedestrian refuge, median, central reserve, channelliser, roundabout, gantry, pole, ramp, bollard, pipe, wire, cable, sign, signal or lighting forming part of the road, and
- (d) any other structure or thing forming part of the road —
 - (i) used, or the use of which is reasonably required, for the safety, convenience or amenity of road users or for the construction, maintenance, operation or management of the road or for the protection of the environment, or
 - (ii) prescribed by the Minister;

"structure" has the meaning assigned to it by the Act of 2000;

3.0 Site Location and Description

The subject site is located within the townland of Kilcoolaght within the town of Killarney, County Kerry. This is located to the north of High Street at the junction of St. Anne's Road (National Road N-71) and Upper High Street (Regional Road R-876).

The subject site is located at the edge of a green space area and is bounded by a 1.7-metre-high wall to the north, beyond which is the High Street public car park, an access road to the car park to the west, a line of established mature trees to the east and the green space area to the south, beyond which is a public footpath and St. Anne's Road.

4.0 Proposed Development

The proposed development comprises of a 18-metre high slimline monopole (designed to a width of 0.4 metres) together with ground-based equipment cabinets and associated site development works for wireless data and broadband services. It is stated that the infrastructure will accommodate 2 no. operators including Eir.

The application and appeal is accompanied by plans and elevation drawings outlining the position, design and capacity of the structure and a number of photomontages. It is stated that the structure will be coloured in a galvanised grey finish, however, it can be painted in any colour such as dark fir green or black finish.

5.0 Planning Authority Decision

5.1. Decision

The planning authority (PA) decided to refuse the licence, by Order dated 8th February 2024, for the following reason:

- 1. It is considered that the proposed development would constitute a highly obtrusive feature at this location and would be seriously injurious to the visual, recreational and residential amenities of the area, which is in a tourist town. The proposal would contravene Objective 14-79 of the Kerry County Development Plan 2022-2028 and Objective KA 35 of the Killarney Town Plan. The proposal would set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.*

5.2. Planning Authority Reports

Planning Reports

There is 1 no. area planner (AP) report which considered that the proposal would be seriously injurious to the recreational amenity of the green space area, would seriously injure the amenities and depreciate the value of property in the vicinity and would be highly visible close to the town centre. The AP determined that Appropriate Assessment (AA) was not required and that the project was not one which required Environmental Impact Assessment (EIA) or screening for EIA. A refusal was recommended which was endorsed by the Senior Executive Engineer and Senior Engineer.

Other Technical Reports

Municipal District Engineer (report dated 30/01/24) - This report had no objection to the licence application subject to conditions.

5.3. Prescribed Bodies

None on file.

6.0 Relevant Planning History

None on subject site according to file or planning register.

7.0 Policy Context

7.1. Kerry County Development Plan 2022-2028

It is an objective of the Council to:

KCDP 14-71

Facilitate the sustainable delivery of high-speed, high-capacity digital and mobile infrastructure and support the continued investment and the delivery of ICT infrastructure, broadband networks and digital broadcasting in the County in line with the National Broadband Plan for Ireland.

KCDP 14-73

Support the sustainable provision of modern and innovative telecommunications infrastructure at appropriate locations.

KCDP 14-79

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

KCDP 14-80

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

Volume 6: Appendix 1 Development Management Standards and Guidelines

Section 1.14.1 – Telecommunications

The following shall be taken into account when preparing a planning application:

- Co-location of such facilities on the same mast or cabinets by different operators is favoured to discourage a proliferation, where possible. Where new facilities are proposed applicants will be required to satisfy the Council that they have made a reasonable effort to share facilities or to locate facilities in clusters.
- Every effort shall be made to locate telecommunication masts in non-scenic areas or in area where they are unlikely to intrude on the setting of, or views to/from national monuments, protected structures or sensitive streetscapes. The preferred location for telecommunication antennae is in industrial estates or areas zoned for industrial use or in areas already developed for utilities.
- All planning applications shall be required to furnish a statement of compliance with the International Radiation Protection Association (IRPA) Guidelines or the equivalent European Pre-Standard 50166-2 in the interest of health and safety.
- Every effort should be made to located new telecommunication masts in existing compounds or adjacent to existing masts.

- When locating on greenfield sites the mast should be away from existing residential properties.
- The preferred location for masts and antennae is in industrial estates, attached to industrial buildings or other commercial buildings.

Killarney Town Development Plan – Volume 2

The subject site is located on lands zoned 'M2 Town Centre'. Chapter 4 does not specifically reference 'telecommunications' infrastructure, however, does state that 'public facilities and infrastructure' is open to consideration on such zoned lands. Volume 6 (Appendix 2) outlines that the objective of this zoning is to provide for the development and enhancement of town core uses including retail, residential, commercial, civic and other uses.

It is an objective of the Council to:

KA 35

Sustainably plan for and facilitate the continued regeneration and renewal of Killarney's Town Centre's streets, public realm spaces, including parks, walkways and greenways in order to revitalise it as a prosperous, vibrant, attractive location in which to live, work, learn and visit.

Killarney Local Area Plan 2018-2024

This acknowledges that availability of high-speed broadband is a vital infrastructural requirement to ensure the continued economic and social development of the County. This will be achieved through, inter alia, accelerated commercial investment by the telecommunications sector.

The 'M2 Town Centre' zoning is reflected within this Plan.

7.2. National Policy

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

7.3. 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.

7.4. National Guidance

- Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996), and associated Circular Letter PL07/12 (19th October 2012)

7.5. Natural Heritage Designations

The subject site is not located within any designated site. The nearest designated sites are the Killarney National Park Special Protection Area (SPA) (Site Code 004038) and the Killarney National Park, Macgillicuddy's Reeks And Caragh River Catchment Special Area of Conservation (SAC) (Site Code 000365), which are located approximately 500 metres south/600 metres west of the subject site. The SAC is also a proposed Natural Heritage Area (pNHA).

7.6. 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. Therefore, if the Board are minded to allow the licence appeal, I consider that the development would not be de-exempted under Section 4(4) of the Planning and Development Act 2000, as amended. I refer the Board to Appendix 1 in this regard.

8.0 The Appeal

8.1. Grounds of Appeal

The applicant lodged an appeal to the Board under Section 254(6)(a) of the Planning and Development Act 2000, as amended, on 14th March 2024. The grounds of appeal are summarised as follows:

- The site was sensitively chosen due to the distance from the nearby sensitive receptors such as residential buildings and is located in an existing built up area of mixed use commercial units and town centre car parking.
- There are no suitable existing structures in the area to locate Eir's equipment and due to intervening vegetation and built form as well as increasing capacity issues due to this densely populated area, a new structure is required as a last resort in accordance with the 1996 Government Guidelines.
- The height is the lowest possible to see over surrounding high trees and built form and in order for two operators to share the same pole.
- All mobile operators have an obligation to provide 100% coverage throughout the country and is the reason why the installation is required. A total of 7 existing sites were investigated, however, they were considered at capacity or too far away for 4G and 5G technologies to work due to the data speeds required. 4G and 5G technology only have a range of several hundred metres.
- The Garda Station mast, located approximately 180 metres west, is currently occupied by Three and is not suitable for Eir's needs. There is interference with TV and radio reception if these masts are at full capacity.
- The proposed pole is typical of the baseline character in the area as evident by the streetlights. It is set back from the road and will benefit from screening from existing trees.
- A number of photomontages have been submitted and an analysis of four viewpoints has been prepared in accordance with the Guidelines for Landscape and Visual Impact Assessment (3rd Edition) 2013. The photomontages clearly demonstrate no significant visual effects. Therefore, it is requested that the Board disregard this reason for refusal.

- It is proposed that the structure will be coloured in a galvanised grey finish, however, it is possible for it to be painted in any colour including a dark fir green or black finish.
- There is no section of the development plan where the distance between a telecommunications structure and a house is indicated. There are no minimum separation distances as per Circular PL 07/12. The nearest dwelling is over 100 metres from the site.
- The site is zoned as a mixed use development area which is to facilitate uses ancillary to the economic and retail provision and does not function as an active recreational space for the town.
- It is vital that the town is able to support growing numbers of visitors every year by supporting enabling infrastructure like wireless internet. 4G and 5G access will support the long term ambitions for tourism and it is considered that the refusal is contrary to objective 14-79 of the Kerry County Development Plan and objective KA 35 of the Killarney Town Plan. There are major existing black spots for coverage within the town including the area north of the main street.
- The engineer's report had no objection to the proposed development at this location.
- The development is suitably distanced away from any heritage, landscape and ecological sensitive designated area that will not be impacted by the proposal.
- Compliance with emission limits is regulated by ComReg and the limits are specified by International Commission for Non-Ionising Radiation Protection (ICNIRP) including for this site.
- The development is supported by the National Planning Framework, the Regional Spatial and Economic Strategy for the Southern Region, the National Broadband Plan and the provisions of the Kerry County Development Plan 2022-2028 with the siting and design complying with objectives KCDP 14-71 to 80.

8.2. Planning Authority Response

The PA did not issue a response to the grounds of appeal.

9.0 Assessment

Legislative Context

- 9.1. Firstly, the Board should note that licences under Section 254(1) of the Planning and Development Act 2000, as amended, relate to, inter alia, “*overhead electronic communications infrastructure and any associated physical infrastructure*” which is located “*on, under, over or along (my emphasis) a public road*”.
- 9.2. The site is located next to a boundary wall which defines the boundary of the High Street public car park. I consider that such public car park to form part of the public road having regard to part (d) of the “*road*” definition set out under Section 2(1) of the Roads Act 1993, as amended. The car park is a public space which controls vehicular traffic and, therefore, is a structure used for the safety, convenience and amenity of road users. Moreover, the boundary “*wall*” also forms part of the road as defined by part (c) of the “*road*” definition set out under Section 2(1) of the Roads Act 1993, as amended. Therefore, I consider that the siting of the development is “*along*” the public road and, thus, the siting complies with the requirements of Section 254(1) of the Planning and Development Act 2000, as amended.
- 9.3. Additionally, and if the Board are minded to disagree with my interpretation above, it is my view that the green space area represents a “*verge*” and, therefore, can also be considered part of the public road having regard to part (c) of the “*road*” definition set out under Section 2(1) of the Roads Act 1993, as amended.
- 9.4. Secondly, the Board should note that in considering an appeal for a Section 254 licence it is required to have regard to the following four criteria in accordance with Section 254(5) of the Planning and Development Act 2000, as amended;
- (a) The proper planning and sustainable development of the area,
 - (b) Any relevant provisions of the development plan, or local area plan,
 - (c) The number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and
 - (d) The convenience and safety of road users including pedestrians.

Planning Assessment

9.5. Having examined the licence application details and all other documentation on file, including the submissions received in relation to the appeal, the reports of the planning authority and having inspected the site, having regard to relevant local, regional and national policies and guidance, and having regard to the provisions of Section 254(5) of the Planning and Development Act 2000, as amended, I consider that the substantive issues in this appeal to be considered are the following:

- Principal of the Development
- Justification for the Development
- Visual Amenity
- Residential Amenity
- Traffic Safety
- Health and Safety

Principal of the Development

9.6. The Board should note that Section 1.14.1 of the Kerry County Development Plan 2022-2028 (CDP) (Appendix 1, Volume 6) states that the preferred location for telecommunication masts and antennae is in industrial estates, areas zoned for industrial use, areas already developed for utilities or attached to industrial buildings or other commercial buildings.

9.7. The subject site is a green space area and is located on lands zoned 'M2 Town Centre' under both the Killarney Town Development Plan (KTDP) (Volume 2 of the CDP) and the Killarney Local Area Plan 2018-2024. I note that Section 1.3.7 of the CDP (Appendix 2, Volume 6) provides a land use zoning matrix and states that any proposed land uses not listed in this matrix will be considered on a case-by-case basis having regard to the proper planning and sustainable development of the area and to, inter alia, compliance with the CDP and Section 28 Guidelines. Whilst the matrix does not specifically reference telecommunications infrastructure, it does state that 'infrastructure' is 'open to consideration'. Having regard to the above, I consider the proposed development is acceptable in principle, subject to my assessment below.

- 9.8. Furthermore, the Board should note that regional policy objective 137 of the Regional Spatial and Economic Strategy for the Southern Region (RSES) seeks to facilitate and strengthen the delivery of high speed, high-capacity telecommunications infrastructure within the region and objectives KCDP 14-71 and KCDP 14-73 of the CDP seek to facilitate and support the delivery of information and communications technology (ICT) infrastructure at appropriate locations.

Justification for the Development

- 9.9. Section 4.3 of the 1996 Telecommunications Guidelines for Planning Authorities states that within the vicinity of larger towns that operators should endeavour to locate such infrastructure in industrial estates or industrial zoned land. It is also stated that the use of tall buildings or other existing structures is preferable to the construction of independent structures. I note that this is reflected in Section 1.14.1 of the CDP as outlined under paragraph 9.6 above.
- 9.10. I note that as part of the application and appeal the applicant assessed a total of 7 no alternative locations to locate the subject development, however, these were discounted due to the structures being at capacity or to their location being too distant for 4G and 5G technologies to work due to the data speeds required. I note that an existing mast operated by Three is located within the grounds of the Garda station approximately 170 metres west of the site, however, this was discounted by the applicant as it was not suitable for its needs and there would be interference with TV and radio reception if it is at full capacity.
- 9.11. The Board should note that I have reviewed the Commission for Communications Regulation (i.e. ComReg) outdoor mobile coverage mapping for Eir's 4G and 5G coverage¹ and I note that it illustrates that a large area of Killarney benefits from very good coverage (i.e. the highest standard) for both 4G and 5G, however, there is a substantial pocket within the surrounding area of the subject site, including along St. Anne's Road (N-71) which does not achieve this highest standard with regards to 4G coverage. Additionally, the Board should note that the applicant has stated that the purpose of the development is to improve indoor coverage which I note the ComReg maps do not illustrate.

¹ https://coveragemap.comreg.ie/map?location=52.0619453,-9.5114166&technology=5g&network=eir&place_id=ChIJwfgBEAg8RUgRd2k3-ZS6O3Y

- 9.12. With regards to the proposed 18 metre height, I note that the applicant has stated that this is required in order to achieve a line of sight over the adjacent trees and built form and to achieve the sharing of the pole with another operator.
- 9.13. It is my view that adequate technical justification has been put forward by the applicant for the development of a new telecommunications structure in this location which complies with the provisions of the 1996 Guidelines. I am also satisfied that the 18 metre height is required in order to achieve effective operation to accommodate a multiple number of users which I consider to be in accordance with Section 4.5 of the 1996 Guidelines. The Board should also note that the PA did not raise any issues with regards to the applicant's technical justification for the development and, thus, did not include such issue in its reasons for refusal of the licence.

Visual Amenity

- 9.14. The PA's reason for refusal of the licence was due to it representing a highly obtrusive feature that would seriously injure, inter alia, the visual and recreational amenities of the area. Having visited the site, I did note that it formed part of an attractive well-maintained green space area together with a monument acknowledging fallen freedom fighters located approximately 20 metres to the west. I also note that the site is not located within close proximity of any protected structure, architectural conservation area or recorded monument.
- 9.15. Having regard to the modest footprint of the structure and associated works (2.69sqm) and to the 'M2 Town Centre' zoning under the KTDP, it is my view that the development would not result in a substantial loss of amenity space. Therefore, I consider that it would not seriously injure the recreational amenity in this regard and will remain an attractive public realm space in accordance with objective KA 35 of the KTDP.
- 9.16. Furthermore, I observed when travelling south-eastwards on St. Anne's Road (N-71) to the junction of the Upper High Street car park access, that any views of the proposed structure would be intermittent and incidental and would not terminate the main viewpoint towards High Street. Similarly, when travelling westwards on St. Anne's Street to the junction of the car park access, I observed that the structure would again be sited out of view of the main viewpoint due to its siting alongside a line of mature trees.

- 9.17. However, I do recognise that the structure would be visible at the northern end of Upper High Street facing northwards, at the junction of St. Anne's Road/Upper High Street and at the junction of Upper High Street/Msgr O'Flaherty Road. Notwithstanding this, having regard to the slimline design of the 18-metre high pole and to the backdrop from such views comprising of an urban car park, I do not consider that the structure would be seriously detrimental to the visual amenity of the area. Additionally, it is my view that the dark fir green/black colour finish recommended by the applicant, rather than the grey galvanised steel, will further assist in assimilating the structure into the environment.
- 9.18. Furthermore, I acknowledge that the pole would also be visible from Bishop Moynihan's Crescent to the north/northwest, however, having regard to the separation distance of approximately 90 metres and to the slimline design of the structure, I again do not consider it would be seriously detrimental to the visual amenity of the area. Therefore, I consider that the development complies with objectives KCDP 14-73 and KCDP 14-80 in this regard.
- 9.19. Additionally, Section 254(5)(c) of the Act requires the Board to have regard to the number and location of existing appliances, apparatuses or structures on, under, over or along the public road. Having inspected the site and having reviewed the planning register, I note that there have been no such applications granted by the PA on, under, over or along the public road in proximity to the subject site. The Board should also note that the development also seeks to provide accommodation for a second operator, which is in accordance with the provisions of Section 4.5 of the 1996 Guidelines. Therefore, I have no significant concerns in relation to visual clutter regarding such development in the locality.

Residential Amenity

- 9.20. I note that the PA's reason for refusal also referenced the impact of the development on residential amenity. I note that the siting of the structure has been located approximately 30 metres from a residential property to the south, approximately 50 metres from a dwelling to the southeast, approximately 60 metres from a dwelling to the east and approximately 100 metres from the Bishop Moynihan Crescent dwellings to the north. Having regard to these separation distances and to the scale and slimline nature of the monopole, I consider that the proposed development would not have a

significant adverse impact on the residential amenities of the area, and, therefore, is in accordance with objective KCDP 14-79 of the CDP and Section 1.14.1 of Volume 6 of the CDP in this regard.

- 9.21. Furthermore, having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

Traffic Safety

- 9.22. Having inspected the site and surrounding area, I noted that the proposed siting of the structure is set back from the public roadway and entrance/exit of the car park and out of the main viewpoint of motorists. Having regard to this, to the 50kph speed limit within the locality and to the signalised junction opposite the site, I consider that the proposed development would not have an adverse impact on the convenience and safety of road users. I also note that the structure is set back from the public footpath and will not interfere with or impact the convenience or safety of pedestrians. The Board should note that the Municipal District Engineer of the PA raised no objection to the application.

Health and Safety

- 9.23. I note that Section 1.14.1 of Volume 6 of the CDP states that it is a requirement for all planning applications (*my emphasis*) to include a statement of compliance with the International Radiation Protection Association (IRPA) Guidelines or the equivalent European Pre-Standard 50166-2 in the interest of health and safety. However, as the subject appeal relates to a Section 254 licence application and not a Section 34 planning application, I am satisfied that this requirement does not apply in this instance.
- 9.24. Notwithstanding this, the Board should note that Circular Letter PL07/12 states that it should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process.

10.0 Appropriate Assessment (AA) Screening

- 10.1. 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 500 metres from the Killarney National Park Special Protection Area (SPA) (Site Code 004038) and the Killarney National Park, Macgillicuddy's Reeks And Caragh River Catchment Special Area of Conservation (SAC) (Site Code 000365).
- 10.2. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this determination is as follows:
- To the scale and nature of the proposed development.
 - To the location of the proposed development within a built-up urban area and to the built up nature of the surrounding area.
 - To the absence of any hydrological connection to any European site.
 - To the distance from the nearest European sites regarding any other potential ecological pathways and intervening lands.
 - Taking into account the screening determination by the PA.
- 10.3. I consider that the 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. No measures intended to avoid or reduce harmful effects on European sites have been taken into account in reaching this determination.
- 10.4. Therefore, if the Board are minded to allow the licence appeal, I consider that the development would not be de-exempted on AA grounds under Section 4(4) of the Planning and Development Act 2000, as amended.

11.0 Recommendation

It is my recommendation to the Board that the appeal is allowed under Section 254(6)(b) of the Planning and Development Act 2000, as amended, and that directions shall be given to the planning authority to **Grant** the licence, subject to conditions, for the reasons and considerations set out below.

12.0 Reasons and Considerations

Having regard to the provisions of Section 254 of the Planning and Development Act 2000, as amended, and to the provisions of:

- (a) The National Planning Framework,
- (b) The Regional Spatial and Economic Strategy for the Southern Region,
- (c) The Kerry County Development Plan 2022-2028, which seeks to facilitate and support the delivery of information and communications technology (ICT) infrastructure at appropriate locations,
- (d) The Killarney Local Area Plan 2018-2024,
- (e) The Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996) and associated Circular Letter PL07/12,

together with the location and siting of the proposed development within the settlement boundary of Killarney on lands zoned ‘M2 Town Centre’ under the Killarney Town Development Plan (Volume 2 of Kerry County Development Plan 2022-2028) and Killarney Local Area Plan 2018-2024, to the design, height and scale of the proposed development, and to the separation distance to residential properties, it is considered that the proposed development would not be seriously detrimental to the residential or visual amenities of the area and would not result in a traffic hazard. Furthermore, the Board is satisfied, having regard to the Commission for Communications Regulation outdoor mobile coverage mapping and based on the technical information submitted with the licence application and appeal, that adequate justification has been demonstrated for the proposed structure. Finally, it is considered that the proposed development would be in accordance with objectives KCDP 14-71, KCDP 14-73, KCDP 14-79 and KCDP 14-80 of the Kerry County Development Plan 2022-2028, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the planning authority, as amended by the

further plans and particulars submitted to the Board on the 14th day of March 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) This licence permission shall apply for a period of five years from the date of this Order. The telecommunications structure and related ancillary structures shall then be removed unless, prior to the end of the period, permission shall have been granted for their retention for a further period.

(b) The site shall be reinstated on removal of the telecommunications structure and ancillary structures. Details relating to the removal and reinstatement shall be submitted to, and agreed in writing with, the planning authority at least one month before the date of expiry of this permission.

Reason: To enable the impact of the licence to be re-assessed, having regard to changes in technology and design during the specified period.

3. Details of a colour scheme for the monopole and any ancillary structures hereby permitted shall be submitted to, and agreed in writing with the planning authority, prior to the commencement of development, and the agreed colour scheme shall be applied to the monopole and any ancillary structures upon erection.

Reason: In the interest of the visual amenities of the area.

4. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage of the site.

Reason: In the interest of the visual amenities of the area.

5. Surface water and drainage arrangements for the proposed development shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. 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.

Reason: To avoid a multiplicity of telecommunications structures in the area, in the interest of visual amenity and proper planning and sustainable development.

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

12th December 2024

Appendix 1: EIA Pre-Screening

An Bord Pleanála Case Reference		ABP-319350-24	
Proposed Development Summary		Section 254 licence for telecommunications monopole and supporting infrastructure	
Development Address		Upper High Street, Killarney, County Kerry	
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 Proceed to Q2.
			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)?			
Yes			Proceed to Q3.
No	X		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No		Screening determination remains as above (Q1 to Q4)	
Yes		Screening Determination required	