# Comhairle Contae Chorcaí Cork County Council

Eir Mobile, c/o Sarah Waddell, 2022 Bianconi Avenue, Citywest Business Park, Dublin 24. D24 HX03.

Pleanáil agus Forbairt, Halla an Chontae, Bóthar Charraig Ruacháin, Corcaigh T12 R2NC. Fón: (021) 4276891 R-phost: planninginfo@corkcoco.ie Suíomh Gréasáin: www.corkcoco.ie

Planning & Development, County Hall,

Carrigrohane Road, Cork T12 R2NC.

Tel (021) 4276891 Email: planninginfo@corkcoco.ie Web: www.corkcoco.ie



24th October 2023

REF:

D/287/23

LOCATION:

Bandon Telephone Exchange, Brady's Lane, Cloghmacsimon, Bandon, Co. Cork.

**DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE** RE: PLANNING & DEVELOPMENT ACT 2000 - 2010.

Dear Madam,

On the basis of the information submitted by you on 5th October 2023 the Planning Authority, having considered the question whether the installation of 3no. 2m high Eir Mobile antennas mounted on 3no. 1m high gantry poles on an existing flat roofed building along with a cabinet at Bandon Telephone Exchange, Brady's Lane, Cloghmacsimon, Bandon, Co. Cork is or is not development and is or is not exempted development has declared that it is development and is exempted development.

#### Reason for Decision

The Planning Authority in considering this referral had particular regard to:

- Sections 3 and 4 of the Planning and Development Act 2000 (as amended), and
- Article 9 of the Planning and Development Regulations 2001 (as amended), and
- Schedule 2: Part 1: Exempted Development: Class 31 (K) of the Planning and Development Regulations 2001 (as amended),
- The Planning History on the site, and
- The particulars received by the Planning Authority on 5th October 2023

#### And Whereas Cork County Council has concluded that -

The installation of 3no. 2m high Eir Mobile antennas mounted on 3no. 1m high gantry poles on an existing flat roofed building along with a cabinet at Bandon Telephone Exchange, Brady's Lane, Cloghmacsimon, Bandon, Co. Cork is development and is exempted development.

This exemption does NOT itself empower a person to carry out a development unless that person is legally mentitled to do so.

We are Cork.

Please note that under Section 5 Subsection 3(a) where a declaration is issued under this section, any person issued with a declaration under subsection 2(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Yours faithfully,

KEVIN O' REGAN,

SENIOR EXECUTIVE OFFICER, PLANNING DEPARTMENT.

In order to process your query, it may be necessary for Cork County Council to collect Personal information from you. Such information will be processed in line with our privacy statement which is available to view at <a href="https://www.corkcoco.ie/privacy-statement-cork-county-council">https://www.corkcoco.ie/privacy-statement-cork-county-council</a>

# Planning Ref D/287/23

# Declaration on Exempted Development under Section 5 of the Planning and Development Act 2000

Site Location: Bandon Telephone Exchange, Brady's Lane,

Cloghmacsimon, Bandon, Co. Cork

**Proposed Development:** i) Whether the installation of 3no. 2m high Eir

Mobile antenna on a mount 1m high Gantry pole on an existing flat roofed building along with a

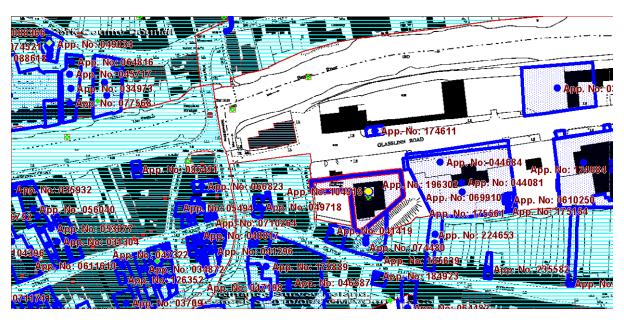
cabinet within the equipment room is exempted

development

# Proposal /Context

The applicant is seeking a determination by the planning authority as to whether or not the works carried out and proposed works at **Bandon Telephone Exchange**, **Brady's Lane**, **Cloghmacsimon**, **Bandon**, Co. Cork are exempted development under the Planning and Development Regulations (2001, as amended).

The proposed works are the installation of 3no. 2m high Eir Mobile antenna on 1m high gantry poles on an existing flat roofed building along with the installation of an internal cabinet within the building is exempted development.



## **Planning History**

10/4515 Eircom Ltd Flood defence works incorporating the construction of 3 no. retaining wall structures, 1000mm high above existing floor levels, including concrete steps and landings to east, north and south elevations of existing building. Granted

### **Legislative Context**

According to Section 3(1) of the Planning and Development Act (2000-2010), "development" means, save where the context otherwise requires, the carrying out of works on, in or under land or the making of any material change in the use of any structures or other land.

**Section 4** of the same Act lists works that would be considered exempted development. It also conveys power on the Minister to make regulations to provide for any class of development to be exempted development for the purposes of the Act.

Of particular relevance to this application is

**Section 4 1(h)** of the Planning and Development Act 2000 as amended which states 'development consisting of the carryout out of works for the maintenance, improvement or other alterations of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of the neighbouring structures'.

Schedule 2 Part 1 of the Planning and Development Regulations (2001 – 2013). Class 31(K) of said Schedule considers

## **CLASS 31**

The carrying out by a statutory undertaker authorised to provide a telecommunications service of development consisting of the provision of—antennae, including small cell antennae, attached to the following existing structures—

- (k)(i) public or commercial buildings (other than education facilities, childcare facilities or hospitals) by way of attachment to roofs, facades, chimneys, chimney pots or vent pipes.
- (ii) electricity pylons;
- (iii) agricultural storage buildings;
- (iv) water towers.

#### **Conditions and Limitations**

- 1. The antenna shall be attached directly to the structure (other than a structure with a flat roof) and not by way of a supporting fixture.
- 2. In the case of a structure with a flat roof, a supporting fixture may be used provided that—
- (a) the fixture does not exceed the height of any existing parapet or railing on the roof by more than 3 metres, and
- (b) access to the roof is not available to any person other than a person authorised by the statutory undertaker.
- (6) The field strength of any such antenna shall not result in the field strength of the non-ionising radiation emission from the radio installations on the site exceeding the limits specified by the Commission for Communications Regulation.

Article 9 of said Regulations lists a series of restrictions on exemptions which includes

(a) if the carrying out of such development would—

- (i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act.
- (ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width.
- (iii) endanger public safety by reason of traffic hazard or obstruction of road users,
- (iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development

- plan, in the draft variation of the development plan or the draft development plan,
- (v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,
- (vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,
- (vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan, save any excavation, pursuant to and in accordance with a licence granted under section 26 of the National Monuments Act, 1930 (No. 2 of 1930),
- (viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,
  - (ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new

- development plan, in the draft variation of the development plan or the draft development plan,
- (x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,
- (xi) obstruct any public right of way,
- (xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area.
- (b) in an area to which a special amenity area order relates, if such development would be development: —
  - (i) of class 1, 3, 11, 16, 21, 22, 27, 28, 29, 31, (other than paragraph (a) thereof), 33 (c) (including the laying out and use of land for golf or pitch and putt or sports involving the use of motor vehicles, aircraft or firearms), 39, 44 or 50(a) specified in column 1 of Part 1 of Schedule 2, or
  - (ii) consisting of the use of a structure or other land for the exhibition of advertisements of class 1, 4, 6, 11, 16 or 17 specified in column 1 of Part 2 of the said Schedule or the erection of an advertisement structure for the exhibition of any advertisement of any of the said classes, or
  - (iii) of class 3, 5, 6, 7, 8, 9, 10, 11, 12 or 13 specified in column 1 of Part 3 of the said Schedule, or
  - (iv) of any class of Parts 1, 2 or 3 of Schedule 2 not referred to in subparagraphs (i), (ii) and (iii) where it is stated in the order made

- under section 202 of the Act that such development shall be prevented or limited,
- (c) if it is development to which Part 10 applies, unless the development is required by or under any statutory provision (other than the Act or these Regulations) to comply with procedures for the purpose of giving effect to the Council Directive.
- (d) if it consists of the provision of, or modifications to, an establishment, and could have significant repercussions on major accident hazards.
- (2) Sub-article (1)(a)(vi) shall not apply where the development consists of the construction by any electricity undertaking of an overhead line or cable not exceeding 100 metres in length for the purpose of conducting electricity from a distribution or transmission line to any premises.

#### Assessment

Having reviewed the proposal and having regard to Class 31(k) in regard to the works that can be carried out on a flat roofed structure, the proposal falls within the conditions and limitations in relation to height of the antenna and the supporting fixture. It is up to the applicant to ensure they fall within the parameters of limitation 6. The installation of a cabinet within the building falls within the parameters of Section 4 1(h) of the Planning and Development Act 2000.

Having reviewed Article 9 de-exemptions, they are not considered relevant in this case.

## **Conclusion**

Having considered the information received and the provisions of both the Planning and Development Act and the Planning and Development Regulations, it is considered that the erection of the 3 antennas are considered development however they are considered exempted development having regard to Class 31(k) of Schedule 2 Part 1 of the Planning and Development Regulations (2001 as amended). The installation of a cabinet within the building falls within the parameters of Section 4 1(h) of the Planning and Development Act 2000 and therefore is also considered exempted development.

Yours sincerely

John Redmond

**Executive Planner** 

24<sup>th</sup> October 2023



# CORK COUNTY COUNCIL APPLICATION FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST	(Please tick $\sqrt{\ }$ )				
4 No. Copies of Application Form:  1 No. Copy of Contact Details:  4 No. Copies 6" O.S. Maps:  4 No. Copies 25" O.S. Maps:  4 No. Copies of Site Layout Plan:  4 No. Copies Scaled Drawings of Development:  680 Application Fee:					
FOR OFFICE USE ONLY					
Receipt No.					
Cash/Cheque/ Credit Card					
Date					
Declaration Ref. No.	DATE STAMP HERE				

You should make sure that you are satisfied that any information/documentation that you submit is appropriate to be viewed by the public. Please do not submit any information that you do not want  $3^{rd}$  parties to view.

In the case of a Declaration of Exemption for Land Reclamation, the following additional information is required:

- A copy of the details submitted to the Council's Environment Department (Inniscarra) for a Waste Licence Permit
- Correspondence from Teagasc (detailing how the land reclamation would benefit the land in question for agricultural purposes)
- Details of existing and proposed levels
- Details of fill material and duration of fill.

#### **DATA PROTECTION**

The planning process is an open and public one. In that context, all applications for Declarations of Exemption are made available for public inspection.

Personal information collected by Cork County Council is done so in order for us to process your application for a Section 5 Declaration of Exemption. Legally we can process this information as it is necessary for us to comply with our statutory/legal obligations. The protection of our personal data is a key priority for the Council and your data will be processed in line with our Privacy policy which is available at <a href="http://www.corkcoco.ie/Privacy-Policy">http://www.corkcoco.ie/Privacy-Policy</a> or hardcopy from our offices at County Hall, Carrigrohane Road, Cork, Ireland. Should you have any questions about our privacy policy or the information we hold about you, please contact us by email to <a href="mailto:dpo@corkcoco.ie">dpo@corkcoco.ie</a> or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

1.	NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A – CONTACT DETAILS)
2.	POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION OF EXEMPTION IS SOUGHT:
3.	QUESTION/DECLARATION DETAILS: state the specific question for which a Declaration of Exemption is sought
Note: (	Only works listed and described under this section will be assessed under the Section 5 Declaration of Exemption

# 4. APPLICATION DETAILS:

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square metres  $(m^2)$ 

(a) Floor area of existing/proposed structure(s):						
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 <sup>st</sup> October, 1964 (including those for which planning permission has been obtained):	Yes No If yes, please provide floor areas (m²) and previous planning reference(s) where applicable:					
(c) If a change of use of land and/or building(s) is proposed, please state the following:						
Existing/previous use	Proposed use					
(d) Are you aware of any enforcement proceedings connected to this site?	Yes No If yes, please state relevant reference number(s):					
5. LEGAL INTEREST OF APPLICANT IN	THE LAND/STRUCTURE:					
Please tick appropriate box to show applicant's legal interest in the land or structure:  Where legal interest is "Other", please state your interest in the land/structure:  If you are not the legal owner, please state the name of the owner/s (address to be supplied at Question C in Contact Details):	A. Owner B. Other					
6. PROTECTED STRUCTURE DETAILS /	ARCHITECTURAL CONSERVATION AREA:					
Is this a Protected Structure/Proposed Protected St	ructure or within the curtilage of a Protected					
Structure: Yes No	If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority:  Yes  No					
If yes, has a Declaration under Section 57 of the P	-					
C4-m-4-m-1						

# **DATA PROTECTION DECLARATION:** 8. In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at http://www.corkcoco.ie/privacy-statement-cork-county-council or in hardcopy from any Council office; and to having your information processed for the following purposes: Processing of your Declaration of Exemption application by the Planning Authority I give permission for my personal information to be processed for the purpose stated above Signed (By Applicant Only) Date GDPR Special Categories of data / Sensitive Personal data - Explicit Consent Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, explicit consent to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject. Special Categories of data / Sensitive Personal data include: Race • Ethnic origin Political opinions Religion • Philosophical beliefs Trade union membership

Genetic data

- Biometric data
- Health data
- Concerning a natural person's sex life
- Sexual orientation

In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at https://www.corkcoco.ie/privacy-statement-cork-county-council or in hardcopy from any Council office; and to having your information processed for the following purposes:

# Sensitive personal data being submitted in support of Declaration of Exemption Application

Sensitive personal data semig submitted in support of Sectardard of Exemption Application					
☐ I give permission for	my sensitive personal data submitted to the Planning Authority to be processed				
for the purpose stated abo	ve.				
Signed					
Date					

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: planninginfo@corkcoco.ie or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westcorkplanninginfo@corkcoco.ie However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.

#### ADVISORY NOTES:

The application must be accompanied by the required fee of €80

The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.

Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.

The application should be sent to the following address:

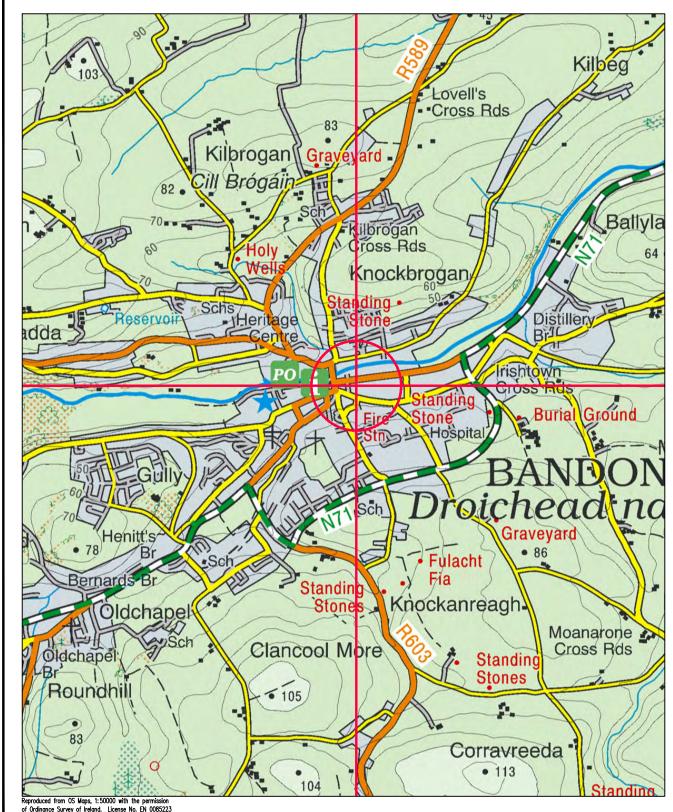
The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- The Planning Authority may request other person(s), other than the applicant; to submit information on the question which has arisen and on which the Declaration of Exemption is sought.
- Any person issued with a Declaration of Exemption may on payment to An Bord Pleanála refer a Declaration of
  Exemption for review by the Board within 4 weeks of the date of the issuing of the Declaration of Exemption
  decision.
- In the event that no Declaration of Exemption is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a Declaration of Exemption was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations, 2001, as amended.

9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the <u>Planning and Development Acts 2000</u>, as amended and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	
Date	







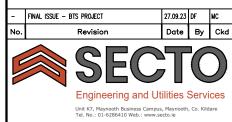


SITE COORDINATES

51° 44′ 44.59″ N LATITUDE: 08° 44' 00.24" W LONGITUDE:

SITE ENTRANCE GPS COORDINATES

EASTING:	149,351	LATITUDE:	51° 44′ 44.57′ N
NORTHING:	55,009	LONGITUDE:	08° 44′ 02.53″ W





EIR Mobile Site No.

Co. CORK

EIR Mobile 2022 Bianconi Avenue Citywest Business Cam Dublin 24 D24 HX03

CK-2976-01

N/A S.P. Ref: Site Name BANDON EXCHANGE, GLASSLYN ROAD, CLOGHMACSIMON, BANDON,

MOBILE TELECOMMUNICATIONS INSTALLATION

LOCATION MAP & PHOTOGRAPHS

Date **27.09.23** Scale AS SHOWN Rev. owg No. CK-2976-01-L01

