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



11th January, 2024

REF:D/288/23LOCATION:Midleton Telephone Exchange, The Green, Midleton, Co. Cork.

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

Dear Sirs,

On the basis of the information submitted by you on 5th October 2023 and 12th December 2023 the Planning Authority, having considered the question whether the installation of mobile telecommunications equipment, less than 3m in height, attached to the flat roof of the Midleton Telecom Exchange building at **Midleton Telephone Exchange, The Green, Midleton, 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 2(1), 3(1), 4(4), of the Planning and Development Act 2000, as amended,
- Articles 3, 5, 6 and 9 and Class 31(k) of Schedule 2, part 1 of the Planning and Development Regulations, 2001, as amended and
- The particulars received by the Planning Authority on 5th October 2023 and 12th December 2023

And Whereas Cork County Council has concluded that -

The installation of mobile telecommunications equipment, less than 3m in height, attached to the flat roof of the Midleton Telecom Exchange building at **Midleton Telephone Exchange**, **The Green**, **Midleton**, **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 entitled to do so.





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,

Cde Baraid

CATHAL DE BARÓID ADMINISTRATIVE 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 https://www.corkcoco.ie/privacy-statement-cork-county-council

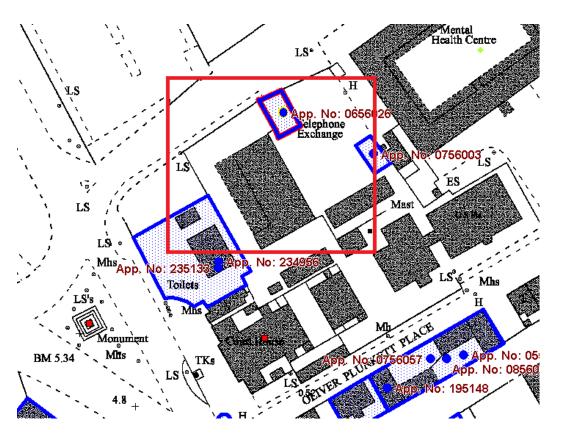
Declaration on Exempted Development under Section 5 of the Planning and Development Act 2000

D288-23- Mobile telecommunications installation, Midleton Telecoms Exchange Building, Midleton

The Question

The applicant is querying whether "an installation of, less then 3m in height, attached to the flat roof of the Midleton Telecoms exchange building" is or is not exempted development

Planning History



06/56026- Permission sought by Pat Farrell for construction of Co-Location Unit, perimeter fencing and ancillary works in connection with Cork County Regional Broadband Project (Cork MAN2) Broadband Project (this application was withdrawn- reasons unknown)

07/56006- Permission granted to CCC for construction of a Co-Location unit, perimeter wall and ancillary works (the co-location unit is being constructed as part of the Cork County Regional Broadband Project (Metropolitan Area Network (MAN2))

Statutory Provisions

I consider the following statutory provisions relevant to this referral case:

Planning and Development Act, 2000

Section 3 (1) states:-

"In this Act, "development" means, except where the context otherwise requires, the carrying out of works on, in over or under land, or the making of any material change of use of any structures or other land."

Works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal".

S 4(1) (g) development consisting of the carrying out by any local authority or statutory undertaker of any works for the purpose of inspecting, repairing, renewing, altering or removing any sewers, mains, pipes, cables, overhead wires, or other apparatus, including the excavation of any street or other land for that purpose;

Section 4 (2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations, 2001.

Planning and Development Regulations, 2001

Article 6(1) of the Regulations states as follows:- "(*a*) Subject to article 9, development consisting of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development 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

Article 9 (1) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development.

The provisions of Class 31 (k) of Part 1 of Schedule 2 regulations is also of relevance

CLASS 31

The carrying out by a statutory undertaker authorised to provide a telecommunications service of development consisting of the provision of -

- (k) intennae, including small cell antennae, attached to the following existing structures—
 - (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;

 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.

- 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

420

 (iii) agricultural storage buildings; (iv) water towers. 	(b) access to the roof is not available to any person other than a person
	authorised by the statutory undertaker.
	 Where an antenna is attached to the façade of a building or the exterior of a chimney or vent, the colour of the antenna shall match and blend with the colour of such façade, chimney or vent pipe.
	4. Where the antenna is hidden inside a chimney pot the existing chimney pot may be replaced by a chimney pot in a suitable material which shall be the same colour, size and shape as the replaced pot, and the antenna shall not protrude beyond the top of the chimney pot.
	5. The planning authority in whose functional area the structure on which the antennae will be attached is situated shall be notified by the statutory undertaker in writing of the proposed location of any such structure at least 4 weeks before such attachment.
	 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

Assessment

Based on the received documents, it is somewhat unclear what exact question is being posed and what exact infrastructure is being sought. The drawings refer to several "proposed" elements while the elevation drawings also refer to "future development". This will need to be clarified



Notwithstanding the uncertainly over the question posed, Class 31 (k), does appear to provide a usable exemption insofar as a mast structure (and supporting fixture) could be erected under the exemption class. This the exemption is only available *to "statutory undertakers authorised to provide a telecommunications service"*. The applicant (EIR mobile) would be authorised under this exemption class to erect a mast

Article 9 restrictions

Having considered the restrictions on exemption listed under Article 9, S9(a)(1) is relevant

(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

The site is located within a designated ACA and located to the rear of a protected structure (Courthouse). Given this status, the file has been referred to the conservation officer who has expressed concerns in this regard (see appendix A). Further detail around this impact will be required before a determination can be made.

The conclusions in relation to AA and EIA above refer in the context of Article 9(1)(a) (viiB) and 9(1)(c) are dealt with separately below

AA/ EIA

Section 4(4) of the Act essentially de-exempts any development which attracts a requirement for Environmental Impact Assessment (EIA) or Appropriate Assessment (AA).

In relation to EIA, part 2 of schedule 5 lists development which may require EIA for the purposes of part 10 of Part 10 of the Planning and Development Act.

Having considered that detail I am satisfied the propsoal does not trigger any requirement for mandatory or sub-threshold EIA

As regards Appropriate Assessment, given the nature of the propsoal and the lack of any hydrogeological link to Natura 2000 site, I am satisfied that the proposal does not generate any concerns re: AA

Conclusion

Further Information is required

Based on the received documents, it is unclear what question is being posed and what exact infrastructure is being sought. The question posed refers to " an installation of, less then 3m in height, attached to the flat roof of the Midleton Telecoms exchange" building while the

layout drawings refer to several "proposed" elements . The elevation drawings also refer to "future development". Please clarify the exact nature of the proposal

Due to location of the development it may injure the visual amenity of Architectural Conservation Area in which the site is located. Therefore a Visual Impact Assessment should be compiled. This shall include the following;

A photomontage of the proposed development and its relationship to the main streets and lanes within the ACA. This shall include views of the proposed development from the street level showing how it will appear in the roofline etc. alongside images of the landscape as it currently exists to allow for realistic comparisons. The photomontage shall be all encompassing, providing 360 degree views of the proposed development. The illustration of the proposed development is to be realistic in terms of its portrayed size, form, design, massing, density and material specifications.

Mitigation measures, which will seek to minimise the visual impact upon the setting shall be compiled. The mitigations should be informed and guided by the photomontage. Mitigations may include, landscape proposals, redesign of the proposed site, relocation of the mast upon the roof, changes in material specifications or reduction in massing.

Enda Quinn

Executive Planner

31/10/2023

Appendix A- CO comments

From: Elena Turk <<u>Elena.Turk@CorkCoCo.ie</u>> Sent: Thursday 2 November 2023 14:53 To: Tracy OCallaghan <<u>Tracy.OCallaghan@CorkCoCo.ie</u>> Subject: RE: S5

Hi Tracy

Thanks for looping me in. the site is within the ACA so I would have some concerns from a visual impact standpoint. Please add the following request if you can;

Due to location of the development it may injure the visual amenity of ACA. Therefore a Visual Impact Assessment should be compiled. This shall include the following; A photomontage of the proposed development and its relationship to the main streets and lanes within the ACA.

This shall include views of the proposed development from the street level showing how it will appear in the roofline etc. alongside images of the landscape as it currently exists to allow for realistic comparisons.

The photomontage shall be all encompassing, providing 360 degree views of the proposed development.

The illustration of the proposed development is to be realistic in terms of its portrayed size, form, design, massing, density and material specifications.

Mitigation measures, which will seek to minimise the visual impact upon the setting shall be compiled. The mitigations should be informed and guided by the photomontage. Mitigations may include, landscape proposals, redesign of the proposed site, relocation of the mast upon the roof, changes in material specifications or reduction in massing.

Kind regards Elena

Dr Elena Turk | Oifigeach Caomhantais Ailtireachta | Pleanáil agus Fobairt

Comhairle Contae Chorcaí | Halla an Chontae | Corcaigh | T12 R2NC | Éire Tel: M 086-1031064 elena.turk@corkcoco.ie | www.corkcoco.ie Tairseach na gcustaiméirí: www.yourcouncil.ie D288-23- Mobile telecommunications installation, Midleton Telecoms Exchange Building, Midleton

Updated Report 11/1/2024

The applicant has outlined the elements subject of this declaration on submitted drawings. While the proposed layout map does not appear to have been altered and includes references to elements proposed on the ground perimeter, elevations only relate to the antennae and supporting elements on the roof of the exchange. In addition the proposed future equipment has been removed from the elevational drawings and the declaration text refers only to the roof. Therefore I am satisfied that the roof area only is the focus of this declaration

In relation to the impact on the ACA, the conservation officer has reviewed the photomontages/ response and is satisfied that the propsoal will not be detrimental to the character of the ACA (see appendix B below). The antenna structures are not particularly conspicuous in the receiving context

Conclusion

In considering this referral, and having had regard particularly to -

(a) Section 2(1), 3(1), 4(4), of the Planning and Development Act, 2000, as amended,

(b) Articles 3, 5, 6 and 9 and Class 31(k) of Schedule 2, part 1 of the Planning and Development Regulations, 2001, as amended,

The Planning Authority has concluded that:

(a)the proposal constitutes "development" within the meaning of S3 of the Act

(b) The proposal constitutes "exempted development" as per Class 31(k) of Schedule 2, part 1 of the Planning and Development Regulations, 2001

Enda Quinn

Executive Planner

11/1/2024

Appendix B- conservation officer updated comments

RE: S5 D/288/23 Eir Midleton



← Reply ← Reply All → Forward … Thu 11/01/2024 10:0.

Morning Enda Yes I'm happy with the views they send, no serious concerns re the visual impacts as its mainly visible to rear.

Dr Elena Turk | Oifigeach Caomhantais Ailtireachta | Pleanáil agus Fobairt Comhairle Contae Chorcaí | Halla an Chontae | Corcaigh | T12 R2NC | Éire Tel: M 086-1031064 elena.turk@corkcoco.ie | www.corkcoco.ie Tairseach na gcustaiméirí: www.yourcouncil.ie

Dr Elena Turk | County Conservation Officer | Planning & Development Cork County Council | County Hall | Cork | T12 R2NC | Ireland Tel: M 086-1031064 elena.turk@corkcoco.ie | www.corkcoco.ie Customer Portal: www.yourcouncil.ie



Elena



2 Heuston South Quarter St. John's Road West Dublin 8 D08 Y42NT +353 1 671 4444 eir.ie

Tracy O'Callaghan Planning Office Cork County Council Carrigrohane Road Cork

<u>By Email</u>

12th December 2023

RE: Declaration of Exempted Development under Section 5 of The Planning and Development Act 2000 – 2010. Whether "an installation of, less then 3m in height, attached to the flat roof of the Midleton Telecoms exchange building" at Midleton Telephone Exchange, The Green, Midleton Lane, Cloghmacsimon, Bandon, Co. Cork is development and is or is not exempt development. Our Ref: CK_2934

Dear Ms O'Callaghan,

Further to your letter dated 3rd November please find enclosed:

- Drawings enclosed illustrating only the equipment Proposed by eir mobile at this time, and the only equipment to be considered for the purposes of this Declaration.
- A photomontage report illustrating the proposed development.

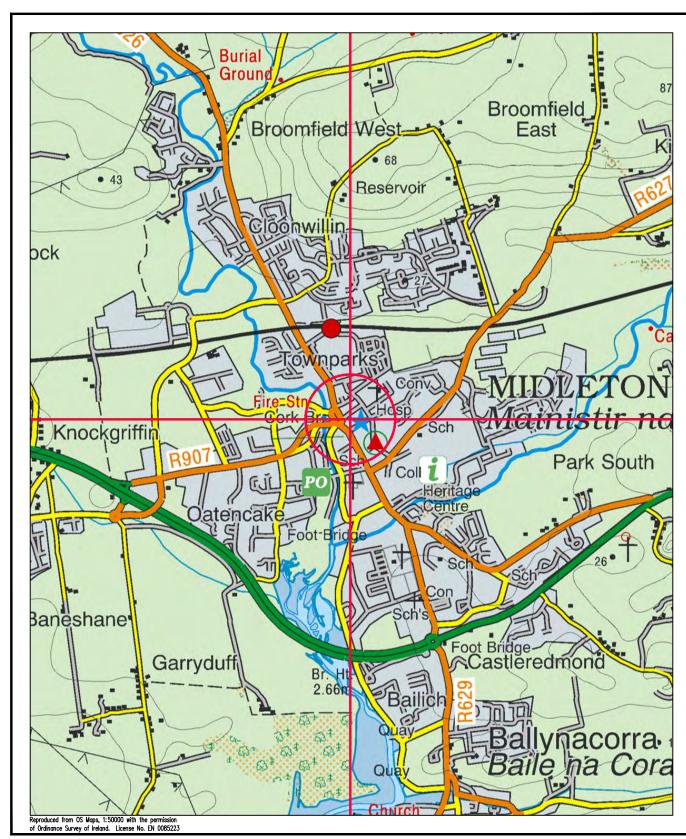
If you require any further information regarding this proposal please do not hesitate to contact me.

Yours faithfully

By Email

Sarah Waddell BSc SCS Site Acquisition & PR Manager Meteor Mobile Communications Limited t/a eir Mobile E: sarah.waddell@eir.ie

eir is a trading name of eircom Limited, Registered as a Branch in Ireland Number 907674 Incorporated in Jersey Number 116389



OS LOCATION MAP







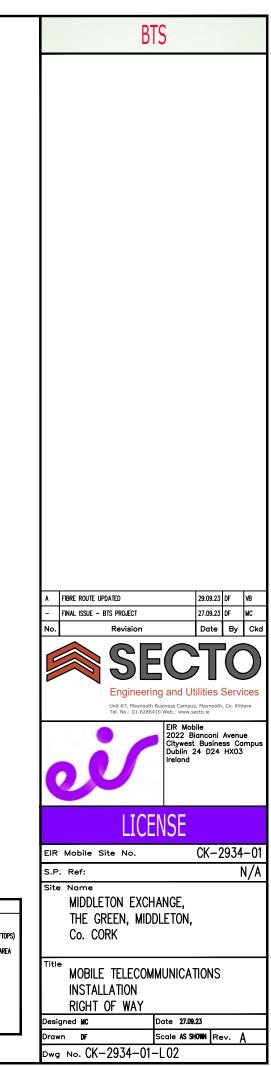
THE OWNERSHIP AND COPYRIGHT OF THIS DRAWING REMAINS WITH METEOR MOBILE COMMUNICATIONS Ltd (TRADING AS EIR MOBILE) AT ALL TIMES. THE DRAWING MAY NOT BE COPIED, DUPLICATED OR PASSED TO THIRD PARTIES WITHOUT THE WRITTEN PERMISSION OF METEOR MOBILE COMMUNICATIONS Ltd.

SITE COORDINATES 188,059 51° 55' 00.39" N EASTING: LATITUDE: 08°10′27.34″W NORTHING: 73,802 LONGITUDE: SITE ENTRANCE GPS COORDINATES 51° 55' 00.87' N EASTING: 188,044 LATITUDE: 73,817 LONGITUDE: 08°10'28.13" W NORTHING: 29.09.23 DF 27.09.23 DF A FIBRE ROUTE UPDATED IVB FINAL ISSUE - BTS PROJECT EIR Mobile 2022 Bianconi Avenue Citywest Business Cam Dublin 24 D24 HX03 LICENSE CK-2934-01 EIR Mobile Site No. N/A S.P. Ref: Site Name MIDDLETON EXCHANGE, THE GREEN, MIDDLETON, Co. CORK MOBILE TELECOMMUNICATIONS INSTALLATION LOCATION MAP & PHOTOGRAPHS Date 27.09.23 esigned MC Scale **AS SHOWN** Rev. A awn DF Dwg No. CK-2934-01-L01

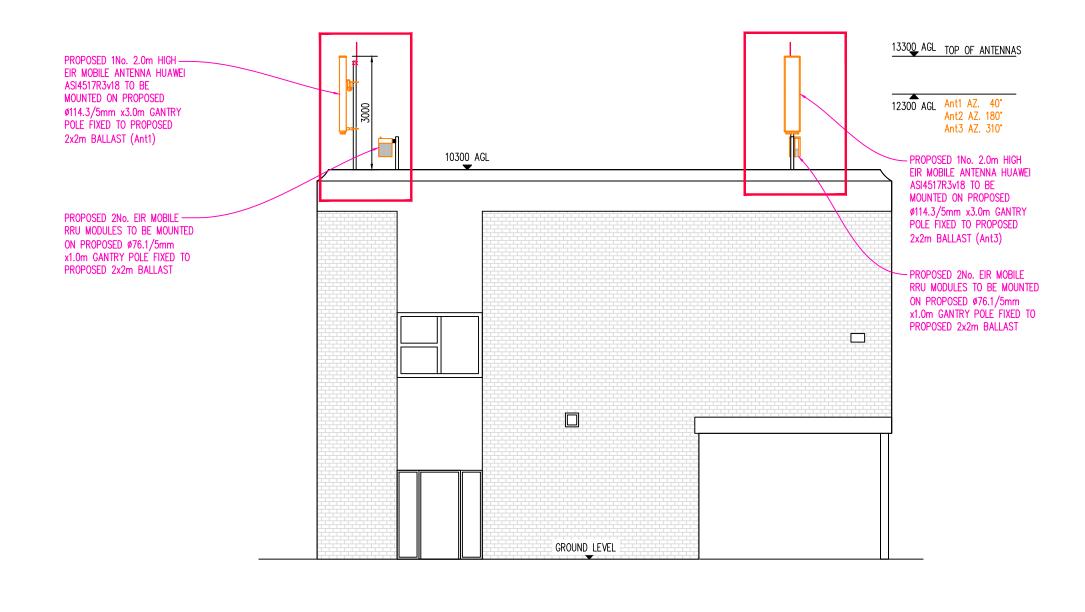
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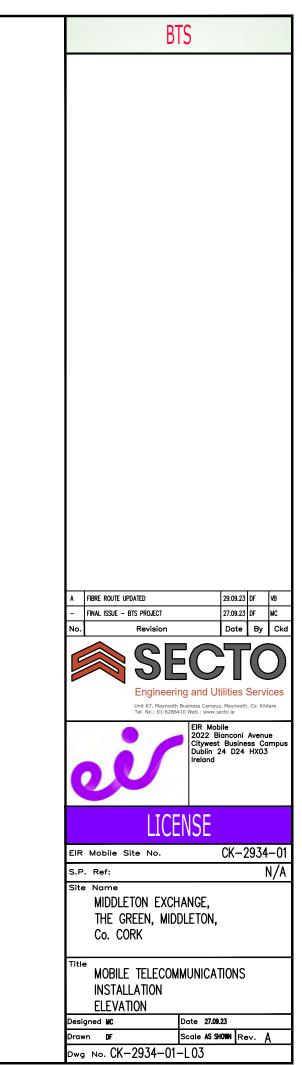
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ACCESS TRACK ACCESS ROUTE (ROOFTOPS) LEASED / LICENSED AREA SITE BOUNDARY LANDLORD HOLDING POWER CABLE UNDERGROUND DUCT FIBRE ROUTE







Telecommunications Development Photomontage Report Report Date: 05/12/2024

> Project: CK2934 Middleton Exchange Surveyed by: Lungelo Nkosi Created by: Nabil Ibnoerrida Approved by: Kieran Tarpey

> > Client:



Provided by:





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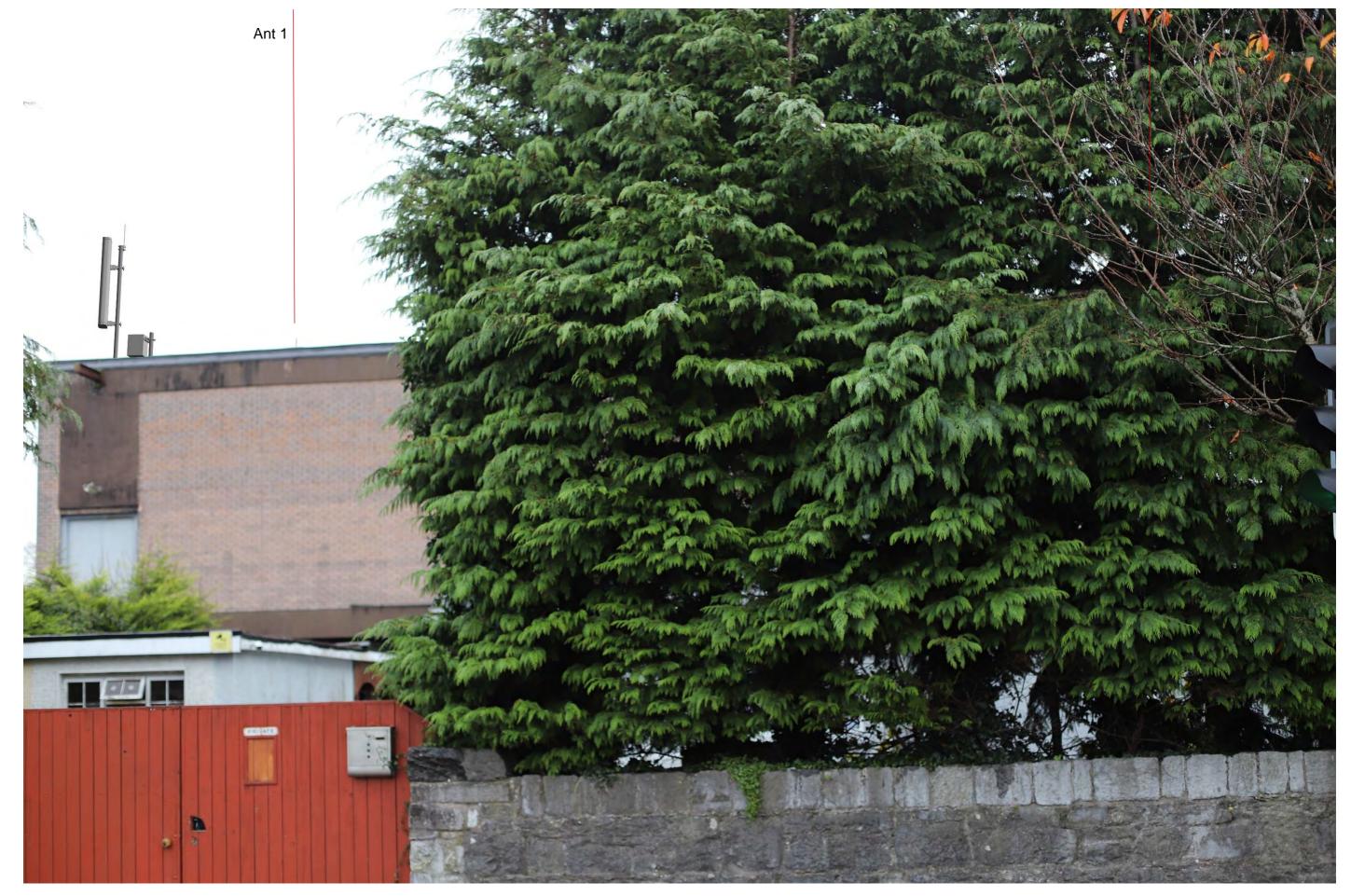






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nmore, Co.	
1 X599	Approved by: Kieran Tarpey



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Unit 1D, Deerpark Business Centre, Oranmore, Co. Galway, H91 X599

Surveyed by: Lungelo Nkosi Created by: Nabil Ibnoerrida

Approved by: Kieran Tarpey



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Surveyed by: Lungelo Nkosi

Created by: Nabil Ibnoerrida

Approved by: Kieran Tarpey



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Page size: A						Galway, H91 X599	Approved by: Kieran Tarpey		

Tracy OCallaghan

From:	PlanningInfo
Sent:	Tuesday 14 November 2023 13:00
То:	Lungelo Nkosi
Subject:	FW: Eir Midleton Exchange - DED
Attachments:	CK_2934 Middleton Ex Section 5 RFI 03112023.pdf; VP Map.jpeg
Importance:	High

Good Afternoon, The Area Planner has advised that the suggested viewpoints are considered appropriate. Kind Regards,

Tracy Ní Cheallacháin | Oifigeach Fóirne | Pleanáil agus Fobairt Comhairle Contae Chorcaí | Halla an Chontae | Corcaigh | T12 R2NC | Éire T +353-(0)21 – 428 5633 tracy.ocallaghan@corkcoco.ie | www.corkcoco.ie Tairseach na gcustaiméirí: www.yourcouncil.ie

Tracy O' Callaghan | Staff Officer | Planning & Development Cork County Council | County Hall | Cork | T12 R2NC | Ireland T +353-(0)21 – 428 5633 tracy.ocallaghan@corkcoco.ie | www.corkcoco.ie Customer Portal: www.yourcouncil.ie



Smaoinigh ar an timpeallacht sula ndéanann tú an ríomhphost seo a phriontáil. Please consider the Environment before printing this mail.

From: Lungelo Nkosi <lungelo@entrust-services.com> Sent: Tuesday 14 November 2023 12:36 To: PlanningInfo <PlanningInfo@CorkCoCo.ie> Subject: Eir Midleton Exchange - DED Importance: High

CAUTION FROM CORK COUNTY COUNCIL IT SECURITY: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Enda

I am writing to you in relation to the proposed declaration of exempted development for the site mentioned in the attached letter.

Please may you advise if the attached VP map will suffice in provision for photomontages that show the impact of the proposal in relation to the ACA.

Should you wish to discuss, please do not hesitate to contact me.

Kind Regards,

Lungelo.

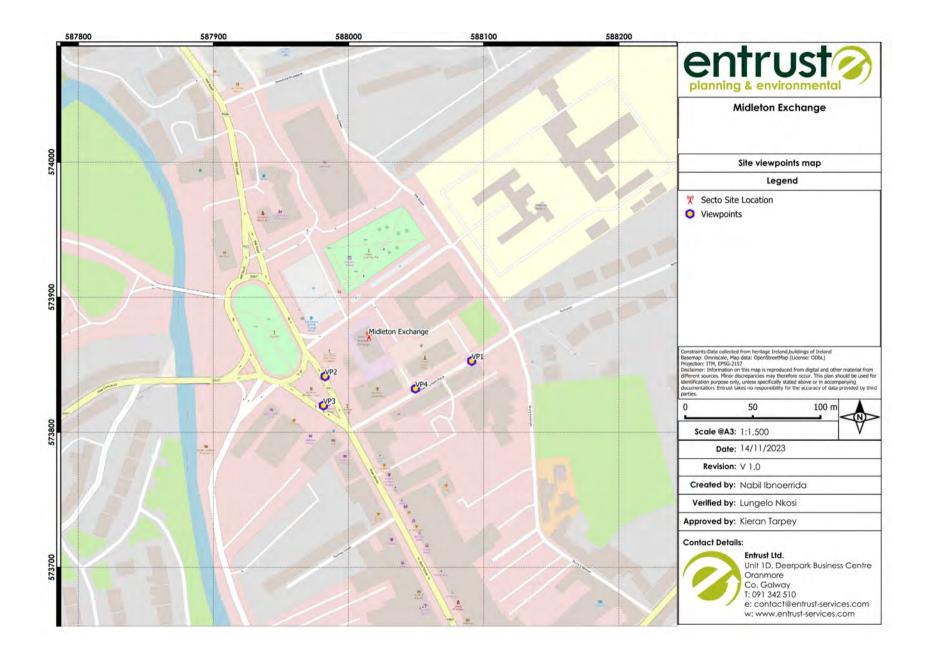


Best Regards, Lungelo Nkosi Planning Consultant

Tel +353 91 342 517 Mobile +353 85 755 7486 Address Entrust Ltd. Unit 1D Deerpark Business Centre, Oranmore, Co. Galway H91 X599

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Comhairle Contae Chorcaí Cork County Council

An Rannóg Pleanála, Halla an Chontae, Bóthar Charraig Ruacháin, Corcaigh T12 R2NC Fón: (021) 4276891 Faics: (021) 4276321 Suíomh Gréasáin: <u>www.corkcoco.ie</u> Planning Department,



Eir Mobile, c/o Sarah Waddell, 2022 Bianconi Avenue, Citywest Business Park, Dublin 24. D24 HX03. County Hall, Carrigrohane Road, Cork T12 R2NC

By Email: <u>sarah.waddell@eir.ie</u>

3rd November 2023

RE: Declaration of Exempted Development under Section 5 of The Planning and Development Act 2000 – 2010.

Whether "an installation of, less then 3m in height, attached to the flat roof of the Midleton Telecoms exchange building" at Midleton Telephone Exchange, The Green, Midleton Lane, Cloghmacsimon, Bandon, Co. Cork is development and is or is not exempt development.

Dear Madam,

I refer to your application for a Declaration of Exemption in relation to the above. The Planning Authority has concluded that further information is required to conclude on the matter.

Based on the received documents, it is unclear what question is being posed and what exact infrastructure is being sought. The question posed refers to "an installation of, less then 3m in height, attached to the flat roof of the Midleton Telecoms exchange" building while the layout drawings refer to several "proposed" elements. The elevation drawings also refer to "future development". Please clarify the exact nature of the proposal.

Due to location of the development, it may injure the visual amenity of Architectural Conservation Area in which the site is located. Therefore, a Visual Impact Assessment should be compiled. This shall include the following:

- A photomontage of the proposed development and its relationship to the main streets and lanes within the ACA. This shall include views of the proposed development from the street level showing how it will appear in the roofline etc. alongside images of the landscape as it currently exists to allow for realistic comparisons. The photomontage shall be all encompassing, providing 360-degree views of the proposed development. The illustration of the proposed development is to be realistic in terms of its portrayed size, form, design, massing, density, and material specifications.
- Mitigation measures, which will seek to minimise the visual impact upon the setting shall be compiled. The mitigations should be informed and guided by the photomontage. Mitigations may include, landscape proposals, redesign of the proposed site, relocation of the mast upon the roof, changes in material specifications or reduction in massing.

Yours faithfully,

Tracy & Gellophan

Tracy O' Callaghan, SO 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 <u>https://www.corkcoco.ie/privacy-statement-cork-county-council</u>

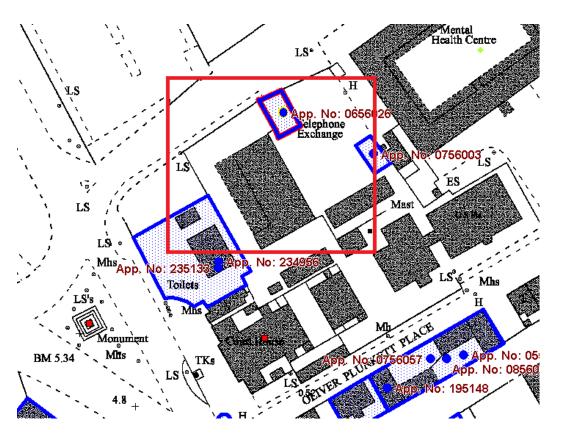
Declaration on Exempted Development under Section 5 of the Planning and Development Act 2000

D288-23- Mobile telecommunications installation, Midleton Telecoms Exchange Building, Midleton

The Question

The applicant is querying whether "an installation of, less then 3m in height, attached to the flat roof of the Midleton Telecoms exchange building" is or is not exempted development

Planning History



06/56026- Permission sought by Pat Farrell for construction of Co-Location Unit, perimeter fencing and ancillary works in connection with Cork County Regional Broadband Project (Cork MAN2) Broadband Project (this application was withdrawn- reasons unknown)

07/56006- Permission granted to CCC for construction of a Co-Location unit, perimeter wall and ancillary works (the co-location unit is being constructed as part of the Cork County Regional Broadband Project (Metropolitan Area Network (MAN2))

Statutory Provisions

I consider the following statutory provisions relevant to this referral case:

Planning and Development Act, 2000

Section 3 (1) states:-

"In this Act, "development" means, except where the context otherwise requires, the carrying out of works on, in over or under land, or the making of any material change of use of any structures or other land."

Works" includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal".

S 4(1) (g) development consisting of the carrying out by any local authority or statutory undertaker of any works for the purpose of inspecting, repairing, renewing, altering or removing any sewers, mains, pipes, cables, overhead wires, or other apparatus, including the excavation of any street or other land for that purpose;

Section 4 (2) of the Act provides that the Minister may, by regulations, provide for any class of development to be exempted development. The main regulations made under this provision are the Planning and Development Regulations, 2001.

Planning and Development Regulations, 2001

Article 6(1) of the Regulations states as follows:- "(*a*) Subject to article 9, development consisting of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development 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

Article 9 (1) of the Regulations sets out circumstances in which development to which Article 6 relates shall not be exempted development.

The provisions of Class 31 (k) of Part 1 of Schedule 2 regulations is also of relevance

CLASS 31

The carrying out by a statutory undertaker authorised to provide a telecommunications service of development consisting of the provision of -

- (k) intennae, including small cell antennae, attached to the following existing structures—
 - (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;

 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.

- 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

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 (iii) agricultural storage buildings; (iv) water towers. 	(b) access to the roof is not available to any person other than a person
	authorised by the statutory undertaker.
	 Where an antenna is attached to the façade of a building or the exterior of a chimney or vent, the colour of the antenna shall match and blend with the colour of such façade, chimney or vent pipe.
	4. Where the antenna is hidden inside a chimney pot the existing chimney pot may be replaced by a chimney pot in a suitable material which shall be the same colour, size and shape as the replaced pot, and the antenna shall not protrude beyond the top of the chimney pot.
	5. The planning authority in whose functional area the structure on which the antennae will be attached is situated shall be notified by the statutory undertaker in writing of the proposed location of any such structure at least 4 weeks before such attachment.
	 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

Assessment

Based on the received documents, it is somewhat unclear what exact question is being posed and what exact infrastructure is being sought. The drawings refer to several "proposed" elements while the elevation drawings also refer to "future development". This will need to be clarified



Notwithstanding the uncertainly over the question posed, Class 31 (k), does appear to provide a usable exemption insofar as a mast structure (and supporting fixture) could be erected under the exemption class. This the exemption is only available *to "statutory undertakers authorised to provide a telecommunications service"*. The applicant (EIR mobile) would be authorised under this exemption class to erect a mast

Article 9 restrictions

Having considered the restrictions on exemption listed under Article 9, S9(a)(1) is relevant

(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

The site is located within a designated ACA and located to the rear of a protected structure (Courthouse). Given this status, the file has been referred to the conservation officer who has expressed concerns in this regard (see appendix A). Further detail around this impact will be required before a determination can be made.

The conclusions in relation to AA and EIA above refer in the context of Article 9(1)(a) (viiB) and 9(1)(c) are dealt with separately below

AA/ EIA

Section 4(4) of the Act essentially de-exempts any development which attracts a requirement for Environmental Impact Assessment (EIA) or Appropriate Assessment (AA).

In relation to EIA, part 2 of schedule 5 lists development which may require EIA for the purposes of part 10 of Part 10 of the Planning and Development Act.

Having considered that detail I am satisfied the propsoal does not trigger any requirement for mandatory or sub-threshold EIA

As regards Appropriate Assessment, given the nature of the propsoal and the lack of any hydrogeological link to Natura 2000 site, I am satisfied that the proposal does not generate any concerns re: AA

Conclusion

Further Information is required

Based on the received documents, it is unclear what question is being posed and what exact infrastructure is being sought. The question posed refers to " an installation of, less then 3m in height, attached to the flat roof of the Midleton Telecoms exchange" building while the

layout drawings refer to several "proposed" elements . The elevation drawings also refer to "future development". Please clarify the exact nature of the proposal

Due to location of the development it may injure the visual amenity of Architectural Conservation Area in which the site is located. Therefore a Visual Impact Assessment should be compiled. This shall include the following;

A photomontage of the proposed development and its relationship to the main streets and lanes within the ACA. This shall include views of the proposed development from the street level showing how it will appear in the roofline etc. alongside images of the landscape as it currently exists to allow for realistic comparisons. The photomontage shall be all encompassing, providing 360 degree views of the proposed development. The illustration of the proposed development is to be realistic in terms of its portrayed size, form, design, massing, density and material specifications.

Mitigation measures, which will seek to minimise the visual impact upon the setting shall be compiled. The mitigations should be informed and guided by the photomontage. Mitigations may include, landscape proposals, redesign of the proposed site, relocation of the mast upon the roof, changes in material specifications or reduction in massing.

Enda Quinn

Executive Planner

31/10/2023

Appendix A- CO comments

From: Elena Turk <<u>Elena.Turk@CorkCoCo.ie</u>> Sent: Thursday 2 November 2023 14:53 To: Tracy OCallaghan <<u>Tracy.OCallaghan@CorkCoCo.ie</u>> Subject: RE: S5

Hi Tracy

Thanks for looping me in. the site is within the ACA so I would have some concerns from a visual impact standpoint. Please add the following request if you can;

Due to location of the development it may injure the visual amenity of ACA. Therefore a Visual Impact Assessment should be compiled. This shall include the following; A photomontage of the proposed development and its relationship to the main streets and lanes within the ACA.

This shall include views of the proposed development from the street level showing how it will appear in the roofline etc. alongside images of the landscape as it currently exists to allow for realistic comparisons.

The photomontage shall be all encompassing, providing 360 degree views of the proposed development.

The illustration of the proposed development is to be realistic in terms of its portrayed size, form, design, massing, density and material specifications.

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Kind regards Elena

Dr Elena Turk | Oifigeach Caomhantais Ailtireachta | Pleanáil agus Fobairt

Comhairle Contae Chorcaí | Halla an Chontae | Corcaigh | T12 R2NC | Éire Tel: M 086-1031064 elena.turk@corkcoco.ie | www.corkcoco.ie Tairseach na gcustaiméirí: www.yourcouncil.ie



<u>CORK COUNTY COUNCIL APPLICATION</u> FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST

<u>4 No. Copies of Application Form:</u> <u>1 No. Copy of Contact Details:</u> <u>4 No. Copies 6" O.S. Maps:</u> <u>4 No. Copies 25" O.S. Maps:</u> <u>4 No. Copies of Site Layout Plan:</u> <u>4 No. Copies Scaled Drawings of Development:</u> <u>680 Application Fee:</u> (Please tick $\sqrt{}$)

FOR OFFICE USE ONLY

Receipt No.	
Cash/Cheque/	
Credit Card	
Date	
Declaration	
Ref. No.	DATE

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

<u>http://www.corkcoco.ie/Privacy-Policy</u> 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 <u>dpo@corkcoco.ie</u> 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: Please 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):	
(d) Those area of existing proposed structure(s).	
 (b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1st October, 1964 (including those for which planning permission has been obtained): 	Yes No If yes, please provide floor areas (m ²) 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:	A. Owner B. Other
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):	

6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

Is this a Protected Structure/Proposed Protected Structure 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, please state relevant reference No	
Is this site located within an Architectural Conservation Area (ACA), as designated in the County	
Development Plan? Yes No	

7. APPROPRIATE ASSESSMENT:

Would the proposed development require an appropriate assessment becaus	se it woul	d be lik	ely to
have a significant effect on the integrity of a European site (SAC, SPA etc)?	Yes	No	

8. DATA PROTECTION DECLARATION:

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

I give permission for my sensitive personal data submitted to the Planning Authority to be processed for the purpose stated above.

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: <u>planninginfo@corkcoco.ie</u> or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: <u>westcorkplanninginfo@corkcoco.ie</u> 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 $\notin 80$

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:

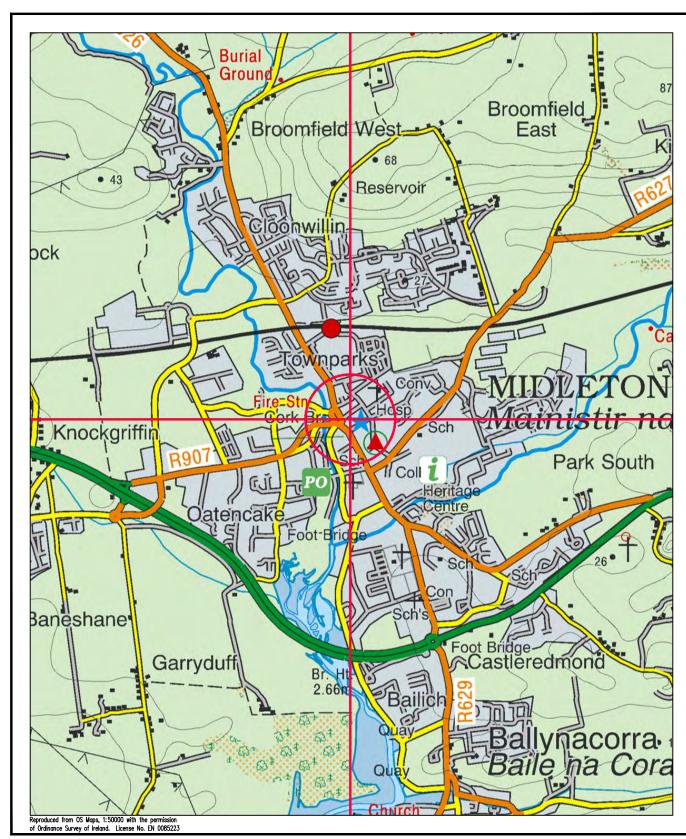
The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- 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>, <u>as amended</u> and the Regulations made thereunder:

Signed (Applicant or Agent as appropriate)	
Date	



OS LOCATION MAP







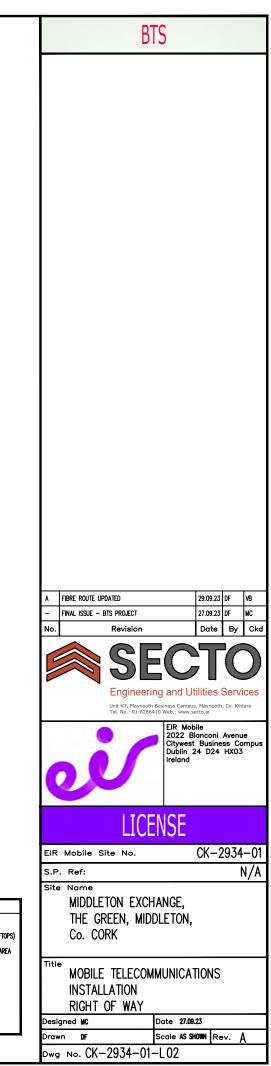
THE OWNERSHIP AND COPYRIGHT OF THIS DRAWING REMAINS WITH METEOR MOBILE COMMUNICATIONS Ltd (TRADING AS EIR MOBILE) AT ALL TIMES. THE DRAWING MAY NOT BE COPIED, DUPLICATED OR PASSED TO THIRD PARTIES WITHOUT THE WRITTEN PERMISSION OF METEOR MOBILE COMMUNICATIONS Ltd.

SITE COORDINATES 188,059 51° 55' 00.39" N EASTING: LATITUDE: 08°10′27.34″W NORTHING: 73,802 LONGITUDE: SITE ENTRANCE GPS COORDINATES 51° 55' 00.87' N EASTING: 188,044 LATITUDE: 73,817 LONGITUDE: 08°10'28.13" W NORTHING: 29.09.23 DF 27.09.23 DF A FIBRE ROUTE UPDATED IVB FINAL ISSUE - BTS PROJECT EIR Mobile 2022 Bianconi Avenue Citywest Business Cam Dublin 24 D24 HX03 LICENSE CK-2934-01 EIR Mobile Site No. N/A S.P. Ref: Site Name MIDDLETON EXCHANGE, THE GREEN, MIDDLETON, Co. CORK MOBILE TELECOMMUNICATIONS INSTALLATION LOCATION MAP & PHOTOGRAPHS Date 27.09.23 esigned MC Scale **AS SHOWN** Rev. A awn DF Dwg No. CK-2934-01-L01

BTS



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ACCESS TRACK ACCESS ROUTE (ROOFTOPS) LEASED / LICENSED AREA SITE BOUNDARY LANDLORD HOLDING POWER CABLE UNDERGROUND DUCT FIBRE ROUTE

