

National Broadband Ireland,
c/o Entrust Planning & Environmental,
Unit 1D Deerpark Business Centre,
Oranmore,
Co. Galway. H91 X599.

9TH November, 2023.

Our Ref: D/40/23.

**RE/ Declaration request on exempted development under Section 5
of the Planning & Development Act, 2000 (as amended).**

Dear Sir,

On the basis of the information and plans submitted on 11th October, 2023 on behalf of National Broadband Ireland, the Planning Authority declares that the installation of electronic communications apparatus including the construction of fibre broadband cabin and ancillary development at Kilcrohane, Bantry, Co. Cork is development and *is exempted development* under Class 31(E) Schedule 2, Article 6, Part 1 of the Planning and Development Regulations, 2001 (as amended).

Please note that any material departure from the proposals as submitted may remove the development from the Exempted category and require the submission of an application for Permission under the Act.

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

Receipt No. WCP12177, in respect of €80.00, is issued herewith.

Yours faithfully,


KEVIN O'REGAN
SENIOR EXECUTIVE OFFICER

Planner's Report

Declaration of Exemption Under Section 5 of the Planning & Development Act 2000 as amended to install electronic communications apparatus/development on behalf of National Broadband Ireland at Kilcrohane, Bantry.

Application Ref. No. D/40/23

Received on: 11/10/2023

Decision Due date: 08/11/2023

Applicant: National Broadband Ireland

Declaration Details

The question being raised under this Section 5 Declaration is as follows:

- The installation of electronic communications apparatus/development on behalf of National Broadband Ireland.

Site Location Maps

Subject site identified by a yellow star.



Site Inspection Photographs



Views into the site from the adjoining public road to the west.

Development Description

The subject site is very small in terms of size and comprises of the southwestern corner of a large south sloping green field which contains a public playground on higher ground to the north. The site is located to the western side of Kilcrohane village, in a primarily residential area.

Relevant Zonings

The subject site is located in a High Value Landscape area as designated under the Cork County Development Plan 2022.

The Landscape Character of the area is described as 'Rugged Ridge Peninsula' under the Draft Landscape Character Assessment Study.

This site is visible from a Scenic Route (S109) located 80 metres away to the north.

The site is not shown to be prone to flooding.

AA

The application site is located within 216 metres of the Sheeps Head Special Area of Conservation (Site Code 000102) which lies to the north-west. Please refer to the Screening Checklist Report in the Appendix which concludes that the potential for significant impacts on the SAC have been ruled out.

EIA – Preliminary Assessment

Development Summary	See above		
Examination			
		Yes / No / Uncertain	
1. Is the size or nature of the proposed development exceptional in the context of the existing environment?			NO
2. Will the development result in the production of any significant waste, or result in significant emissions or pollutants?			No
3. Is the proposed development located on, in, adjoining or have the potential to impact on an ecologically sensitive site or location*?			No
4. Does the proposed development have the potential to affect other significant environmental sensitivities in the area?			No
Comment (if relevant)			
Conclusion			
Based on a preliminary examination of the nature, size or location of the development, is there a real likelihood of significant effects on the environment ?			
There is no real likelihood of significant effects on the environment	EIAR not required		
There is significant and realistic doubt in regard to the likelihood of significant effects on the environment	AA Screening Determination required		No
	Sch 7A information submitted?		No
There is a real likelihood of significant effects on the environment	EIAR is required (Issue notification)		No

Assessment

The applicant is seeking a Declaration of Exemption to construct a fibre broadband cabin and associated communications apparatus on a small plot within the village boundary of Kilcrohane on the Sheeps Head Peninsula. The measurements of the proposed building are 3 metres high x 3 metres long x 3 metres wide.

The structure will be finished in dark green metal cladding.

It is proposed to create a concrete plinth to support the Cabinet.

The compound will be enclosed by a 1.2 metre high wire mesh fence on 3 sides and the western roadside boundary will be retained.

Access to the site is via the entrance to the public playground located to the north. This proposal is also seeking to create a new 1.2 m wide walkway to the site from the existing entrance to the north. Fibre supply ducting will be installed underneath the proposed walkway.

Additional screen planting is proposed along the northern and eastern boundaries of the site comprising of native and semi native species of evergreen and deciduous trees.

Planning & Development Regulations, 2001 as amended

Article 6(1) of the Planning & Development Regulations, 2001 as amended states as follows:-

“Subject to article 9, development 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.”

Part 1 of the Second Schedule of the Regulations sets out exempt development – General.

Under Schedule 2, Class 31 (E) of the Planning and Development Regulations 2001 as amended, the carrying out by a statutory undertaker authorised to provide a permanent telecommunications exchange and radio station containers, including containers for electronic equipment required for transmitting, receiving and processing telecoms data for both wireless or wired networks is considered to be exempt, if it satisfies the following 4 no. limitations:

CLASS 31 The carrying out by a statutory undertaker authorised to provide a telecommunications service of development consisting of the provision of—	
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<p>(c) permanent telecommunications exchange and radio station containers, including containers for electronic equipment required for transmitting, receiving and processing telecoms data for both wireless or wired networks.</p>	<ol style="list-style-type: none"> 1. The equipment housed in the container shall be used exclusively for the purposes of concentrating and re-routing calls for transmitting, receiving and processing telecoms data for both wireless or wired networks and the container shall not have attached to it or within it, whether visible or not, any antennae for the direct transmission or reception of mobile telephony or other telecommunications signals in such a way that the container would act as an antennae support structure. 2. No such container shall exceed 10 metres in length, 3 metres in width or 3 metres in height. 3. No such container shall be situated within 10 metres of the curtilage of a house save with the consent in writing of the owner or occupier thereof, or within 10 metres of the window of a workroom of any other structure. 	<p>Commented [1743]: Amended by article 6(3) 219/2013 Planning and Development (Amendment) Regulations 2013</p> <p>Commented [1735]: Amended by article 6(3) 219/2013 Planning and Development (Amendment) Regulations 2013</p>

	<ol style="list-style-type: none"> 4. The field strength of the non-ionising radiation emissions from the radio station container shall not exceed the limits specified by the Director of Telecommunications Regulation. 	

Having regard to the information and drawings submitted, the proposal will be exclusively used for the purposes of transmitting, receiving and processing telecoms data for both wireless or wired networks and the container shall not have attached to it or within it, whether visible or not, any antennae for the direct transmission or reception of mobile telephony or other telecommunications signals in such a way that the container would act as an antennae support structure, which satisfies condition no. 1

The structure does not exceed 10 metres in length, 3 metres in width or 3 metres in height which satisfies condition no.2.

The proposal will not be situated within 10 metres of the curtilage of a house or window of a workroom or any other structure and satisfies condition no.3.

Condition no.4 relates to the field strength of the non-ionising radiation emissions from the radio station container which shall not exceed the limits specified by the Director of Telecommunications Regulation. This proposal must conform with the requirements of this condition at/during operational stage.

Restrictions on Exempt Development

Under Article 9 (1) (a) (vi) Development to which Article 6 relates shall not be exempt development for the purposes of the Act, (a) if the carrying out of such development would –

(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,

Having regard to the size and scale of this proposal with a footprint of 3 m x 3 m and its height at 3 m, its external finish is dark green metal cladding and to its location which will benefit from additional landscaping, it is considered that there will be no visual impact from this proposal on the nearby scenic route or on this High Value Landscape.

Recommendation

It is considered that the proposed development satisfied the 4 no. conditions and limitations under Class 31 (E).

The proposed development therefore constitutes exempt development under Class 31 (E) Schedule 2, Article 6, Part 1 of the Planning and Development Regulations 2001 (as amended).

Olivia Field

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 Olivia Field
 Assistant Planner
 08/11/2023

Appendix

SHEEPS HEAD SPECIAL AREA OF CONSERVATION

**Development location:
 File Ref:D-40-23**

Section 1: Project Information	
Brief description of the key components of the proposed development.	Proposed structure measuring 3 m x 3 m x 3 m high
Distance of proposed development site from the SAC.	216 metres
List any ecological reports which have been provided in support of this application.	None
Section 2: Natura 2000 Site Data	
Site Name	Sheep's Head SAC Site Code 0102

Qualifying features of Natura 2000 sites	<p>Habitats: Northern Atlantic wet heaths with <i>Erica tetralix</i>; European dry heaths.</p> <p>Species: Kerry Slug</p>	
Other Notable Features	<p>This is a coastal heathland site which supports a number of rare and threatened plant species including Pale Dog-violet and Spotted Rock-rose. As well as heath habitat, the site supports fen and swamp vegetation, upland blanket bog, cutover bog, oak-birch-holly woodland a number of small lake habitats. The SAC overlaps with the Sheep's Head to Toe Head Special Protection Area (4156) which is designated for the protection of the Annex I breeding sea bird Chough. The common frog is also found in the site.</p>	
Conservation Objectives	<p>To maintain or restore the favourable conservation condition of the Annex I habitats Northern Atlantic wet heaths with <i>Erica tetralix</i> and European dry heaths, and the Annex II species Kerry Slug.</p> <p>To maintain the extent, species richness and biodiversity of the entire site.</p> <p>To establish effective liaison and co-operation with landowners, legal users and relevant authorities.</p>	
<p>Section 3: General Assessment <i>Consult with or refer file to ecology if the answer to any of the following is yes.</i></p>		
Is the proposed project within the SAC?		No
Is the proposed project within 100m of the SAC?		No
Does the proposed project involve the development, extension or upgrade of a cycleway or walkway within 100m of the SAC?		No
Does the proposed project involve the development of drainage systems within 100m of the SAC?		No
Could the proposed project give rise to a change in land management practises within the SAC?		No
<p>Section 4: Screening Conclusion – Please tick either A or B</p>		
<p>A) Potential for significant impacts on the SAC have been ruled out. (In order to make this conclusion, you must certify the following, having regard to the information provided in sections 1, 2, and 3).</p>		X
<p><i>Answers to all questions in section 3 is No.</i></p>		
<p>B) Potential for negative impacts have been identified or impacts are uncertain.</p>		
<p>Any Notes or Comments</p>		

Having regard to the scale and nature of this proposal and as no ecological or hydrological connection exists between the proposed site and SAC, the Planning Authority is satisfied that the potential for significant impacts on the SAC can be ruled out.

Section 5: Screening Completed By	Date
Olivia Field	08/11/2023