

An
Bord
Pleanála

Board Order
ABP-313510-22

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 21/1376

Appeal by Vantage Towers Limited of Mountainview, Leopardstown, Dublin against the decision made on the 11th day of April, 2022 by Kerry County Council to refuse permission for the proposed development.

Proposed Development: Erection of a 24 metre high lattice telecommunications support structure together with antennae, dishes and associated telecommunications equipment, all enclosed in security fencing at Monument, Lixnaw, County Kerry.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to:

- (i) The policies for digital connectivity in the Kerry County Development Plan 2022-2028 and specifically objectives KCDP 14-71, 14-72 and 14-73 which support the provision of telecommunications infrastructure subject to environmental considerations,
- (ii) the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities issued by the Department of the Environment and Local Government in July 1996 as updated by circular letters PL07/ 2012 and PL11/ 2020 respectively which recognise the need for flexibility in securing a viable and effective telecommunications network,
- (iii) the documentation provided regarding potential alternative locations and to the justification for sighting at what is considered to be a last resort location,
- (iv) the proposed location in an existing and established quarry setting peripheral to the village and considerably setback from residential properties and community facilities therein while meeting the aim of providing enhanced broadband and wireless signal coverage in the area,
- (v) the availability of the proposed structure for co-location in the future and in accordance with national policy, and

- (vi) the location of the site outside a landscape area or views designated for protection in the Development Plan maps, outside the curtilage of a protected structure, set back from the Lixnaw Canal network and positioning north of the line of view between Old Court and Monument (now demolished),

it is considered that, subject to compliance with the conditions set out below, the proposed development would not unduly detract from the landscape character of the area or seriously injure the visual or residential amenities of the area, would be acceptable in terms of traffic safety, would not contravene materially the Kerry County Development Plan 2022-2028 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In reaching its decision the Board concurred with the opinion of the Inspector and is satisfied that, having regard to the settlement strategy for Lixnaw, the provision for enhanced digital connectivity as provided for in the Kerry County Development Plan 2022-2028 and to the location and scale of the proposed development, there is no material contravention of the development plan and it is not necessary for the Board to rely on section 37(2)(b) of the Planning and Development Act 2000, as amended, to grant permission.

Furthermore, the Board considered the proposed development is a project for the purposes of the Environmental Impact Assessment Directive (EIA), however, the Board has concluded that the proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, and therefore no preliminary examination, screening for EIA or EIA is required.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 15th day of March 2022, 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 that 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. Prior to commencement of development, details of the proposed colour scheme for the telecommunications structure and ancillary structures shall be submitted to and agreed in writing with the planning authority.

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

3. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage of the site without a prior grant of planning permission.

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

4. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.


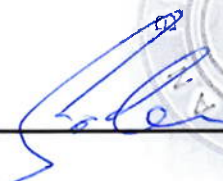
Reason: In the interest of public health.

5. The developer shall allow, subject to reasonable terms, other licensed mobile telecommunications operators to co-locate their antennae onto the subject structure.

Reason: In order to avoid the proliferation of telecommunication structures, in the interest of visual amenity.

6. (a) In the event of the proposed structure becoming obsolete and being decommissioned, the developer shall, at its own expense remove the mast, antennae and ancillary structures and equipment.
- (b) The site should be reinstated upon the removal of the telecommunication structure and ancillary structures. Details of the reinstatement shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of orderly development.


Stephen Bohan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board

Dated this *29th* day of *April* 2024