



An
Bord
Pleanála

Inspector's Report ABP-310170-21

Development	To construct a 30 metre multi-user lattice tower telecommunications structure, carrying antenna and dishes enclosed within a 2.4 metre high palisade fence compound with associated ground equipment and associated site works including new access track
Location	Caher Td, Ogonnelloe, Co Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	21/127
Applicant(s)	Signal Infrastructure Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Signal Infrastructure Limited.
Observer(s)	James Myers & Others.
Date of Site Inspection	24/07/2021.
Inspector	Auriol Considine

1.0 Site Location and Description

- 1.1. The proposed development site is located in an elevated location on the northern slope of the Caher Mountain, and in a rural area, approximately 750m to the south-west of Ogonnelloe, Co. Clare. The upland area of the mountain is primarily under forestry and agriculture comprises the main land use in the area. The area of the subject site has recently been felled and it is noted that new planting is underway. The wider area overlooks Lough Derg to the north of the regional road and the elevated nature of the subject site will result in the proposed development being highly visible from an extensive area.
- 1.2. Access to the site is via an existing track off the R463 Regional Road. The existing track runs approximately 200m in distance. The site has a stated area of 0.4458ha which includes the proposed 820m track to be constructed to provide access to the mast site from the terminus of the existing 200m track.

2.0 Proposed Development

- 2.1. Permission is sought To construct a 30 metre multi-user lattice tower telecommunications structure, carrying antenna and dishes enclosed within a 2.4 metre high palisade fence compound with associated ground equipment and associated site works including new access track, all at Caher Td, Ogonnelloe, Co Clare.
- 2.2. The application includes the relevant plans and particulars, as well as a cover letter which notes that the multi-user antenna support structure has been designed to improve the coverage and capacity of wireless broadband communications services for this are and to meet future services delivery. A technical justification for the structure is also included as well as a visual impact assessment and a letter of consent from the stated landowner, Coillte.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for the proposed development for the following stated reason:

1. The proposed development is located in a Heritage Landscape where it is a requirement, under Objective CDP13.5 of the Clare County Development Plan 2017-2023 (as varied) for all proposed developments to demonstrate that every effort has been made to reduce visual impact, that sites are located to avoid visually prominent locations and that site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads.

Having regard to the prominent and largely unscreened location of the proposed development, it is considered that the proposed telecommunications structure by reason of its height and siting, together with the access track and associated works, would represent visually prominent features from the surrounding area, including when viewed from the R463 (Scenic Route) and from Lough Derg. The proposal would therefore seriously injure the visual amenities of the area, would be contrary to the Objective CDP13.5 of the Clare County Development Plan 2017-2023 (as varied) and contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. The Planning Report considered the principle of the development to comply with the CDP in terms of Objective CDP8.44 as it relates to telecommunications infrastructure. However, the report notes that each case must be considered on its merits having regard to the particular impacts on visual and residential amenities. The report notes no concerns in terms of traffic issues or flood risk.
- 3.2.2. The main issue of concern is the potential visual impact given the elevated location of the site and its proximity to a scenic route and a recently developed walking trail. The report notes the photomontages and visual impact appraisal submitted with the application which give rise to a number of concerns as follows:

- The proposed access road has not been included in the visual impact assessment and it is considered that the road is likely to be highly visible.
- The future harvesting of the trees to the south and south-east will render the structure completely unscreened at the hilltop location.
- Views from the lake have not been considered.

The report concludes that the development is unacceptable given its prominent and unscreened location in a heritage landscape. A refusal of permission is recommended and this Planning Officers report formed the basis of the decision of the PA to refuse.

3.3. Other Technical Reports

None.

3.4. Prescribed Bodies

IAA: No requirement for obstacle lighting on the proposed structure.

Department of Defence: Following consultation with Air Cops at Casement Aerodrome, the Department submits that obstacle lights should be incandescent or of a type visible to Night Vision Equipment.

Shannon Airport Authority: The proposed mast may have implications for the flight paths of aircraft and regard must be had to the IAA *Obstacles to Aircraft in Flight Order 2005* as amended.

The SAA assessment of the proposed development is that it will not penetrate either the inner horizontal surface or the transitional surface or will have any effect on the aerodrome OLS (obstacle limitation surfaces).

3.5. Third Party Observations

- 3.5.1. One third-party objection, with multiple signatories, is noted on the PAs file with regard to the proposed development. The issues raised are summarised as follows:

- The proposed development is on a designated scenic route and in proximity to a number of amenities. Having regard to the open and exposed character of the site and the visually prominent location of the site, the proposed development would conflict with the Telecommunications Guidelines.
- The site is located within a designated heritage landscape which includes the nationally know hiking and walking trails of Moylussa. The development will be a visually discordant feature in the landscape.
- The development will be fully visible from Inis Cealtra (Holy Island) which is a national monument. Holy Island and Lough Derg are important tourist attractions and Holy Island has been placed on the UNESCO tentative list of World Heritage Sites.
- There is no natural screening and as such, the development would be in contravention of the County Development Plan.
- If the Carrownagowan Wind Farm is granted, the mast should be relocated there.
- Other issues relate to views of the lake, co-location has not been addressed, impact on property values, ecological impacts, there is already high-speed broadband in the area provided by a variety of operators and the proximity of the mast to residential properties.

The submission includes a number of photographs, and it is requested that permission be refused.

4.0 Planning History

- 4.1.1. There is no relevant planning history pertaining to this site.
- 4.1.2. It is noted that the Board granted planning permission for a 24m high slimline monopole structure carrying shrouded telecommunication equipment on a site approximately 420m to the south of the current proposed location, ABP ref: PL03.247066 (PA ref: 16/409) following a first party appeal against the PAs decision to refuse. This TE structure was permitted to the current applicant but was not constructed.

- 4.1.3. The planning history of the surrounding area relates primarily to residential developments.

5.0 Policy Context

5.1. National Policy & Guidelines

5.1.1. National Development Plan 2018 – 2027 (NDP)

The NDP states that

“A fundamental underlying objective of the NDP is, therefore, to focus on continued investment to yield a public infrastructure that facilitates priorities such as high-speed broadband and public transport in better cities and better communities.”

5.1.2. Telecommunications Antenna and Support Structures – Guidelines for Planning Authorities 1996 & Circular Letter PL07/12:

This document provides guidance for the assessment of telecommunication structures and were substantially updated by the DoEHLG Circular Letter PL07/12.

Of note, the 2012 Circular provided that:

- Health grounds should no longer be considered.
- Development contributions for broadband infrastructure should be waived.
- The request for bonds should be replaced with an appropriate condition requiring the removal of the mast
- Conditions restricting the life of the permission should not be included
- Separation distances between masts and houses or schools should not be included in development plans.

5.2. Development Plan

- 5.2.1. The Clare County Development Plan 2017-2023 is the relevant policy document pertaining to this appeal.

5.2.2. Section 8.8.9 of the plan deals with Broadband Connectivity. The Plan notes that the provision of high speed, reliable and affordable broadband is essential to the economic growth of both the county and wider region in terms of attracting inward investment. Policy CDP8.43 states that it is the development plan objective with regard to broadband connectivity:

- A To work with the Department of Communications, Climate Change and Natural Resources to ensure the prompt implementation of the Rural Broadband Scheme in County Clare;
- B To facilitate the delivery of high-capacity ICT infrastructure throughout the County.

5.2.3. Section 8.8.10 of the Plan deals with Telecommunications Infrastructure and CDP8.44 Telecommunications Infrastructure, is relevant stating that it is an objective of the Development Plan:

To facilitate the provision of telecommunications services at appropriate locations within the County having regard to the DoEHLG 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996 (as updated by PL07/12 of 2012)'.

5.2.4. The subject site also lies within a Heritage Landscape (Landscape Character Area 7 – Lough Derg Basin) and will be accessed via a designated scenic route, no 28 – R463 from Tuamgraney to Mountshannon. In this regard, Chapter 13 of the CDP is relevant and in particular, Section 13.3.2 which addresses three Living Landscape Types, including type iii Heritage Landscapes - areas where natural and cultural heritage are given priority and where development is not precluded but happens more slowly and carefully. Section 13.3.2.3 identifies Heritage landscapes as those areas within the County where sensitive environmental resources – scenic, ecological and historic, are located. Such landscapes are envisioned as the most valued parts of County Clare and their principle role is to sustain natural and cultural heritage. The Plan notes that developments in these areas are likely to be subject to significantly more scrutiny in terms of how and where they take place.

5.2.5. Objective CDP13.5 states as follows:

It is an objective of the Development Plan:

To require that all proposed developments in Heritage Landscapes demonstrate that every effort has been made to reduce visual impact. This must be demonstrated for all aspects of the proposal – from site selection through to details of siting and design. All other relevant provisions of the Development Plan must be complied with.

All proposed developments in these areas will be required to demonstrate:

- That sites have been selected to avoid visually prominent locations;
- That site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads;
- That design for buildings and structures minimise height and visual contrast through careful choice of forms, finishes and colour and that any site works seek to reduce the visual impact of the development.

5.2.6. In addition to the above, the Plan states that the majority of the areas within Heritage Landscapes contain sites, species, habitats and natural resources that are protected under the provisions of the Habitats Directive and / or the Birds Directive. The Plan expects that applicants familiarise themselves with the requirements of these Directives. In addition, such landscapes are sensitive to visual impacts and water pollution.

5.3. **Development Contribution Scheme 2017-2023**

5.3.1. The Development Contribution Scheme was adopted on the 24th of April 2017. The Scheme identifies classes of development for which Development Contributions are payable and the section on Other Non-Residential Development includes Telecommunication Masts which relates to all free-standing telecommunications support structures, including those in place for telephone, radio, TV. The rate of payment is €17,000 per mast. The scheme notes:

The contribution is a once off payment due in respect of each “mast”.

Subsequent applications to extend the life of temporary permissions shall not be liable for this contribution unless the existing structure is to be materially altered. The co-location of additional antennae on an existing mast will not be

considered to be a material alteration of the structure for the purposes of this scheme.

Any new buildings associated with the masts and antennae will be charged at the relevant non-residential built development rate.

5.3.2. The Scheme also provides for exemptions, part (D) where Table 2: Exemptions includes as follows:

(8) New Telecommunication Masts & Antennae that provide for Broadband.

5.4. Natural Heritage Designations

The subject site is not located within any designated site. The closest Natura 2000 site is Lough Derg (Shannon) SPA (Site Code: 004058) which lies approximately 1km to the north. The Slieve Bernagh Bog SAC (Site Code 002312) is located approximately 3.3km to the south-west of the site. The Slieve Aughty Mountains SPA (Site Code: 004168) is located approximately 5.4km to the north.

5.5. Environmental Impact Assessment

The proposed development is not of a class which requires mandatory EIA as set out in Schedule 5 of the Planning & Development Regulations 2001 as amended.

Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. This is a First Party appeal, submitted by Cignal Infrastructure Ltd, against the decision of the PA to refuse planning permission for the development. The appeal includes detailed back information relating to the applicant, the proposed development, the site and the policy context. The grounds of appeal are summarised as follows:

- A revised visual impact appraisal which includes additional viewpoints is submitted with the appeal.

- An analysis of the 22 viewpoints and description of the effects is provided.
- By positioning the tower in an elevated location, adjacent to existing forestry, the applicant has aimed to incorporate the mast into a landscape where it's impact can be absorbed into the existing setting without significant impact on the amenities of the area.
- The proposed development is expected to be partially visible from public views in the surrounding areas, however these views will be intermittent in nature.
- The structure will be visible from the R463 and R352 Scenic Routes but impacts are not considered detrimental to the important features of these prospects of views towards Lough Derg.
- The structure will be visible in the skyline from Lough Derg but they will be intermittent and at a distance so do not significantly impact on the quality of the views from these locations.
- The views are set against the backdrop of existing Coillte Forestry.
- Views of the track are also anticipated to be limited.
- In terms of the location of the site within a Heritage Landscape, it is submitted that the technical justification for the application supports the proposed development at this location.
- If an authority were to rule out every site where a visual impact was created, the consequences would be that operators would not be able to service the area or a number of structures would be required to provide the same level of service.
- Permission was granted by Clare Co. Co. for a 36m mast at Feakle in an area which is also designated as a Heritage Landscape.
- The Board overturned the councils' decision to refuse a 24m slim line monopole structure c450m to the south of the subject site, ABP ref PL03.247066 refers. The reporting inspector considered that while the mast would be highly visible from a limited area, such views were considered to be

intermittent, incidental and not terminating a view. This permission was not and will not be implemented.

- The development will allow a significant improvement in voice and broadband services to the area, and complies with national, regional and local planning policy.

It is requested that permission for the development be granted. The appeal includes a number of enclosures including additional details for technical justification, letters of support from Eir, Three Ireland and Vodafone as well as the visual impact appraisal.

6.2. Planning Authority Response

The Planning Authority has responded to this appeal requesting that the Board uphold its decision to refuse permission.

6.3. Observations

There is one observation noted on the appeal file, with multiple signatures. The observation is submitted by Mr. James Myers and others and the issues raised reflect those raised to the Planning Authority during its assessment of the proposed development. The issues are summarised as follows:

- The proposed development is on elevated lands on a designated scenic route. The Board previously refused developments on this route due to visual impact.
- The site is located within a designated heritage landscape which includes the nationally known hiking and walking trails of Moylussa. The development will be a visually discordant feature in the landscape. The Board refused a similar development for this reason due to the impact on and a traditional walking route as referred to in the Telecommunications Guidelines.
- The development will be fully visible from Inis Cealtra (Holy Island) which is a national monument. Holy Island and Lough Derg are important tourist attractions and Holy Island has been placed on the UNESCO tentative list of World Heritage Sites.

- There is no natural screening and as such, the development would be in contravention of the County Development Plan.
- If the Carrownagowan Wind Farm is granted, the mast should be relocated there.
- Other issues relate to views of the lake, co-location has not been addressed, impact on property values, ecological impacts, there is already high-speed broadband in the area provided by a variety of operators and the proximity of the mast to residential properties.

The submission includes a number of photographs, and it is requested that permission be refused.

7.0 **Assessment**

7.1. Having regard to the nature of the proposed development, together with the information presented in support of the proposed development, and having undertaken a site inspection, I consider it appropriate to assess the proposal under the following headings:

- Principle of the proposed development & compliance with the Development Plan
- Development Contribution
- Other Issues

7.2. **Principle of the proposed development & compliance with the Development Plan.**

7.2.1. The proposed development seeks to erect 30 metre multi-user lattice tower telecommunications structure, carrying antenna and dishes enclosed within a 2.4m high palisade fence compound with associated ground equipment and associated site works including new access track, all at Caher Td, Ogonnelloe, Co Clare. The site is located within an area where clear felling of trees has recently occurred. The site is located at an elevated and prominent location and close to the highest point of the hill. This area of Co. Clare is identified as being of a high landscape quality with

the adjoining road network comprising scenic routes due to the proximity of Lough Derg.

7.2.2. The Clare County Development Plan 2017-2023 is the relevant policy document pertaining to this appeal. Section 8.8.9 of the plan deals with Broadband Connectivity and the Plan notes that the provision of high speed, reliable and affordable broadband is essential to the economic growth of both the county and wider region in terms of attracting inward investment. Section 8.8.10 of the Plan deals with Telecommunications Infrastructure and the following policies are considered relevant in this case:

- Policy CDP8.43 states that it is the development plan objective with regard to broadband connectivity:

A To work with the Department of Communications, Climate Change and Natural Resources to ensure the prompt implementation of the Rural Broadband Scheme in County Clare;

B To facilitate the delivery of high-capacity ICT infrastructure throughout the County.

- CDP8.44 Telecommunications Infrastructure is relevant stating that it is an objective of the Development Plan:

To facilitate the provision of telecommunications services at appropriate locations within the County having regard to the DoEHLG 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996 (as updated by PL07/12 of 2012)'.

In this regard, I consider that the proposed development generally accords with the stated policy requirements of the County Development Plan as they relate to the provision of telecommunications infrastructure. Site specific matters however, with particular regard to the visual impacts arising, are required to be addressed.

7.2.3. The subject site also lies within a Heritage Landscape (Landscape Character Area 7 – Lough Derg Basin) and will be accessed via a designated scenic route, no 28 – R463 from Tuamgraney to Mountshannon. In this regard, Chapter 13 of the CDP is relevant and in particular, Section 13.3.2 which addresses three Living Landscape Types, including type iii Heritage Landscapes - areas where natural and cultural

heritage are given priority and where development is not precluded but happens more slowly and carefully'. Section 13.3.2.3 identifies Heritage landscapes as those areas within the County where sensitive environmental resources – scenic, ecological and historic, are located. Such landscapes are envisioned as the most valued parts of County Clare and their principle role is to sustain natural and cultural heritage. The Plan notes that developments in these areas are likely to be subject to significantly more scrutiny in terms of how and where they take place.

7.2.4. Objective CDP13.5 states as follows:

It is an objective of the Development Plan:

To require that all proposed developments in Heritage Landscapes demonstrate that every effort has been made to reduce visual impact. This must be demonstrated for all aspects of the proposal – from site selection through to details of siting and design. All other relevant provisions of the Development Plan must be complied with.

All proposed developments in these areas will be required to demonstrate:

- That sites have been selected to avoid visually prominent locations;
- That site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads;
- That design for buildings and structures minimise height and visual contrast through careful choice of forms, finishes and colour and that any site works seek to reduce the visual impact of the development.

7.2.5. I would note that the Telecommunication Guidelines, at Section 4 deal with development control matters and section 4.2 deals with design and siting and section 4.3 dealing with visual impact. While I acknowledge the preference for monopoles, the Guidelines note that the design of the support structure will be dictated by radio and engineering parameters, with limited scope for requesting changes in design. In terms of the reason for refusal cited by the PA, the Board will note that the primary concerns relate to non-compliance with Objective CDP13.5 of the Plan due to the impact on visual amenity of the Heritage Landscape.

- 7.2.6. With regard to the visual impacts associated with the proposed development, I note the photomontages submitted with the application, supplemented by those submitted as part of the first party appeal. I consider that the proposed development represents a significant visual intrusion in this landscape due to the height of the structure and the elevation of the site. I would also agree with the Planning Authority's concerns with regard to the proposed new track to be constructed to access the site and the visual impacts associated with same. While I acknowledge that the subject site lies to the landward side of the scenic route, the elevation and prominence of the site will result in the mast being visible quite consistently along the route rather than intermittently from the scenic route. The visual impact from Lough Derg, as well as Holy Island is also a significant concern.
- 7.2.7. I note that the applicant has indicated that planning permission was granted by the Board for a 24m slimline monopole structure approximately 450m to the south of the subject site. I also accept that this structure was not constructed and that the current proposal is described to be a more appropriate alternative to service the wider area. In acknowledging this history, I would advise the Board that the context of the two sites, notwithstanding their proximity, is inherently different. The ground level of the previously permitted mast was significantly lower than the current proposal and the proposed structure was lower in terms of height. It would be inappropriate to compare the two sites in my opinion, as the permitted mast was located in an area which could provide a better level of screening to reduce any visual impacts from the wider area including the scenic route and Lough Derg.
- 7.2.8. As such, I consider that the principle of the development does not accord with the requirements of the County Development Plan in terms of the visual impact of the proposed tower on the Heritage Landscape where such landscapes are envisioned as the most valued parts of County Clare and their principle role is to sustain natural and cultural heritage. The proposed development would, therefore, be contrary to the requirements of Objective CDP13.5 of the Clare County Development Plan. 2017-2023, as varied.

7.3. **Development Contribution**

- 7.3.1. The current Clare County Council Development Contribution Scheme was adopted on the 24th of April 2017. The Scheme identifies classes of development for which

Development Contributions are payable and the section on Other Non-Residential Development includes Telecommunication Masts which relates to all free-standing telecommunications support structures, including those in place for telephone, radio, TV. The rate of payment is €17,000 per mast. The scheme notes:

The contribution is a once off payment due in respect of each “mast”.

Subsequent applications to extend the life of temporary permissions shall not be liable for this contribution unless the existing structure is to be materially altered. The co-location of additional antennae on an existing mast will not be considered to be a material alteration of the structure for the purposes of this scheme.

Any new buildings associated with the masts and antennae will be charged at the relevant non-residential built development rate.

7.3.2. The Scheme also provides for exemptions, part (D) where Table 2: Exemptions includes as follows:

(8) New Telecommunication Masts & Antennae that provide for Broadband.

7.3.3. In terms of the above text, it would appear that the proposed development should be subject to a development contribution. However, part (D) and Table 2 provides for exemptions where new masts and antennae provide broadband. In this instance, it would appear that the mast will provide for a range of services, including broadband and phone services. I note that the Development Contribution Scheme, while requiring the payment of a contribution for a new mast, does not provide for a reduction in contributions *pro-rata* for broadband infrastructure.

7.3.4. In this regard, and in accordance with DoEHLG Circular Letter PL07/12, I am satisfied that the payment of a development contribution for the development, under the provision of the Clare County Councils Development Contribution Scheme should not be applied.

7.4. Other Issues

7.4.1. The National Broadband Plan, 2012 Department of Communication, Energy and Natural Resources (DCENR), seeks to change the broadband landscape in Ireland through a combination of commercial and State led investment, and the purpose of

the Report of the Mobile Phone and Broadband Taskforce is to deliver the Plan in the shortest time possible time. In terms of the proposed development, I am satisfied that the applicant has presented a reasonable justification for the proposed infrastructure.

8.0 Appropriate Assessment

8.1. Introduction

- 8.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 8.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. The applicant did not submit an Appropriate Assessment Screening Report or a Natura Impact Statement with the application.
- 8.1.3. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.
- 8.1.4. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:
- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
 - Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

8.2. Consultations

- 8.2.1. The Board will note that the third-party observations, prescribed bodies or Local Authority submissions relating to the subject appeal, or the Planning Officers report, raised any issues relating to AA.

8.3. Screening for Appropriate Assessment

- 8.3.1. The applicant included a paragraph on Appropriate Assessment in the Planning Report submitted as part of the subject application. Section 5 of the Planning Report noted that the site is not located within any designated site. In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site. There are 6 Natura 2000 Sites occurring within a 15km radius of the site, which are presented in the following table.

European Site (code)	List of Qualifying interest /Special conservation Interest	Conservation Objectives	Distance from proposed development (Km)	Assessment
<p>Lough Derg (Shannon) SPA</p> <p>(Site Code: 004058)</p>	<ul style="list-style-type: none"> • Cormorant (Phalacrocorax carbo) [A017] • Tufted Duck (Aythya fuligula) [A061] • Goldeneye (Bucephala clangula) [A067] • Common Tern (Sterna hirundo) [A193] • Wetland and Waterbirds [A999] 	<ul style="list-style-type: none"> • To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA <p>To acknowledge the importance of Ireland's wetlands to wintering waterbirds, "Wetland and Waterbirds" may be included as a Special Conservation Interest for some SPAs that have been designated for wintering waterbirds and that contain a wetland site of significant importance to one or more of the species of Special Conservation Interest. Thus, a second objective is included as follows:</p> <ul style="list-style-type: none"> • To maintain or restore the favourable conservation condition of the wetland habitat at Lough Derg (Shannon) SPA as a resource for the regularly-occurring migratory waterbirds that utilise it. 	<p>1km to the north</p>	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>

European Site (code)	List of Qualifying interest /Special conservation Interest	Conservation Objectives	Distance from proposed development (Km)	Assessment
Slieve Bernagh Bog SAC (Site Code: 002312)	<ul style="list-style-type: none"> Northern Atlantic wet heaths with Erica tetralix [4010] European dry heaths [4030] Blanket bogs (* if active bog) [7130] 	<ul style="list-style-type: none"> The NPWS has identified a site-specific conservation objective to restore the favourable conservation condition of the Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets. 	3.3km to the south-west	Site is located entirely outside the EU site and therefore there is no potential for direct effects. No habitat loss arising from the proposed development. No disturbance to species. No pathways for direct or indirect effects. Screened Out
Slieve Aughty Mountains SPA (Site Code: 004168)	<ul style="list-style-type: none"> Hen Harrier (Circus cyaneus) [A082] Merlin (Falco columbarius) [A098] 	<ul style="list-style-type: none"> To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA 	5.4km to the north	Site is located entirely outside the EU site and therefore there is no potential for direct effects. No habitat loss arising from the proposed development. No disturbance to species. No pathways for direct or indirect effects. Screened Out

European Site (code)	List of Qualifying interest /Special conservation Interest	Conservation Objectives	Distance from proposed development (Km)	Assessment
<p>Lower River Shannon SAC (Site Code: 002165)</p>	<ul style="list-style-type: none"> • Sandbanks which are slightly covered by sea water all the time [1110] • Estuaries [1130] • Mudflats and sandflats not covered by seawater at low tide [1140] • Coastal lagoons [1150] • Large shallow inlets and bays [1160] • Reefs [1170] • Perennial vegetation of stony banks [1220] • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • Salicornia and other annuals colonising mud and sand [1310] 	<ul style="list-style-type: none"> • The NPWS has identified a site-specific conservation objective to maintain the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> ○ Lampetra planeri (Brook Lamprey) [1096] ○ Lampetra fluviatilis (River Lamprey) [1099] ○ Sandbanks which are slightly covered by sea water all the time [1110] ○ Estuaries [1130] ○ Mudflats and sandflats not covered by seawater at low tide [1140] ○ Coastal lagoons [1150] ○ Large shallow inlets and bays [1160] ○ Reefs [1170] 	<p>8.5km to the south</p>	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>

	<ul style="list-style-type: none"> • Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330] • Mediterranean salt meadows (Juncetalia maritimi) [1410] • Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260] • Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] • Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] • Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] • Petromyzon marinus (Sea Lamprey) [1095] 	<ul style="list-style-type: none"> ○ Perennial vegetation of stony banks [1220] ○ Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] ○ Salicornia and other annuals colonising mud and sand [1310] ○ Tursiops truncatus (Common Bottlenose Dolphin) [1349] ○ Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260] ○ Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] • The NPWS has identified a site-specific conservation objective to restore the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> ○ Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] ○ Petromyzon marinus (Sea Lamprey) [1095] 		
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	<ul style="list-style-type: none"> • Lampetra planeri (Brook Lamprey) [1096] • Lampetra fluviatilis (River Lamprey) [1099] • Salmo salar (Salmon) [1106] • Tursiops truncatus (Common Bottlenose Dolphin) [1349] • Lutra lutra (Otter) [1355] 	<ul style="list-style-type: none"> ○ Salmo salar (Salmon) [1106] ○ Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330] ○ Lutra lutra (Otter) [1355] ○ Mediterranean salt meadows (Juncetalia maritimi) [1410] ○ Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] 		
<p>Loughatorick South Bog SAC (Site Code: 000308)</p>	<ul style="list-style-type: none"> • Blanket bogs (* if active bog) [7130] 	<ul style="list-style-type: none"> • The NPWS has identified a site-specific conservation objective to restore the favourable conservation condition of the Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets. 	9.7km to the north	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
<p>Lough Derg, North-east Shore SAC (Site Code: 002241)</p>	<ul style="list-style-type: none"> • Juniperus communis formations on heaths or calcareous grasslands [5130] • Calcareous fens with Cladium mariscus and 	<ul style="list-style-type: none"> • The NPWS has identified a site-specific conservation objective to maintain the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets: 	14.7km to the north-east	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p>

	<p>species of the Caricion davallianae [7210]</p> <ul style="list-style-type: none"> • Alkaline fens [7230] • Limestone pavements [8240] • Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] • Taxus baccata woods of the British Isles [91J0] 	<ul style="list-style-type: none"> ○ Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] ○ Alkaline fens [7230] ○ Taxus baccata woods of the British Isles [91J0] <ul style="list-style-type: none"> • The NPWS has identified a site-specific conservation objective to restore the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> ○ Juniperus communis formations on heaths or calcareous grasslands [5130] ○ Limestone pavements [8240] ○ Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0] 		<p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
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8.4. Potential Significant Effects

8.4.1. In order for a significant effect of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). It is noted that the subject development site is located outside all of the Natura 2000 sites identified below, and therefore there is no potential for direct effects to any designated site.

8.4.2. The subject development site is an upland forestry site and is not located within any designated site. There is no indication that the site contains any of the habitats or species associated with any Natura 2000 site being subject to commercial forestry. I would note that no pathways between the site and the Natura 2000 sites in Lough Derg exist. As the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated in terms of:

- Habitat loss / alteration / fragmentation: The subject site lies at a remove of some 1km from the boundary of any designated site. As such, there shall be no direct loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
- Disturbance and / or displacement of species: The site lies within a recently felled, commercial forest environment. No qualifying species or habitats of interest, for which the designated sites are so designated, are noted to occur at the site. As the subject site is not located within or immediately adjacent to any Natura 2000 site and having regard to the nature of the construction works proposed, there is little or no potential for disturbance or displacement impacts to species or habitats for which the identified Natura 2000 sites have been designated.
- Water Quality: The proposed development does not include any proposals to connect to water services, or to install a private Wastewater Treatment Plant. I am generally satisfied that the development, if permitted, is unlikely to impact on the overall water quality within Lough Derg.

8.4.3. The potential for likely significant effects on the qualifying interests of Natura 2000 sites in Lough Derg, or any other Natura 2000 site occurring within 15km of the site,

can be excluded given the distance to such sites, the nature and scale of the development and the lack of a direct hydrological connection.

8.5. In Combination / Cumulative Effects

- 8.5.1. In relation to in-combination impacts, I note a very small number of planning permissions granted for minor developments in the immediate area. I noted nothing of significant substance which would give rise to concerns in terms of in combination or cumulative effects on the Natura sites. Having regard to the nature of the proposed development together with all other matters raised above, I consider that any potential for in-combination effects on any Natura 2000 site can be excluded.

8.6. Conclusion on Stage 1 Screening:

I have considered the detail of the proposed development, the NPWS website, aerial and satellite imagery, the limited scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude on the basis of the information available, that the proposed development, either individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

9.0 Recommendation

It is recommended that the proposed development be refused for the following stated reason.

10.0 Reasons and Considerations

The proposed development is located in a Heritage Landscape where it is a requirement, under Objective CDP13.5 of the Clare County Development Plan 2017-2023 (as varied) for all proposed developments to demonstrate that every effort has been made to reduce visual impact, that sites are located to avoid visually prominent locations and that site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads.

Having regard to the prominent and largely unscreened location of the proposed development, it is considered that the proposed telecommunications structure by reason of its height and siting, together with the access track and associated works, would represent visually prominent features from the surrounding area, including when viewed from the R463 (Scenic Route) and from Lough Derg. The proposal would therefore seriously injure the visual amenities of the area, would be contrary to the Objective CDP13.5 of the Clare County Development Plan 2017-2023 (as varied) and contrary to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

1st August 2021