



An
Bord
Pleanála

Inspector's Report ABP-311789-21

Development	Construction of a 25 meter artificial pine tree, multi-user telecommunications support structure solution carrying telecommunications equipment, associated equipment and cabinets and 2.4m palisade fence compound with access track. A Natura Impact Statement (NIS) accompanies this application
Location	Devlin or Barr or Ballyconnell, Creeslough, Letterkenny PO, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	2151599
Applicant(s)	Signal Infrastructure Ltd
Type of Application	Permission.
Planning Authority Decision	To refuse.
Type of Appeal	First
Appellant(s)	Signal Infrastructure Ltd
Observer(s)	None
Date of Site Inspection	21 st March 2022
Inspector	Deirdre MacGabhann

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1.0 Site Location and Description

- 1.1. The 0.23ha appeal site is situated c.7km to the south west of Creeslough in the townland of Devlin or Barr or Ballyconnell, County Donegal. It lies within a Coillte owned coniferous woodland to the west of the R256 regional road. Access to the site is from a forestry track which serves the plantation. The site lies in a sparsely populated area where the landscape is characterised by mountains, hills, open views, forestry and little development. Glenveagh National Park lies to the south, Muckish Mountain to the north and Aghla Beg to the west.
- 1.2. The plantation in which the appeal site lies is visible from the regional and local road network to the south west of the site and to the north and east of it (see photographs).

2.0 Proposed Development

- 2.1. The proposed development comprises:
 - A 25m artificial pine tree, multi-user telecommunications support structure solution, carrying telecommunications equipment for three no. operators. Plans indicate three no. antenna at different angles, one remote radio unit (RRU) per antenna and two no. dishes (0.6 -0.9m), for each of three operators.
 - Associated equipment and cabinets.
- 2.2. The telecommunications infrastructure will be situated in a compound which will be enclosed by a 2.4m high palisade fence. Access to the site is via the existing access track.
- 2.3. The planning application includes drawings and:
 - Planning Report.
 - Visual Impact Appraisal (photomontages).
 - Visual Impact Assessment Report.
 - Technical Justifications.
 - Natura Impact Statement.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 30th September 2021, the planning authority decided to refuse permission for the development on the grounds that the development, located in an area of Especially High Scenic Amenity, failed to comply with policies TC-P-3 and TC-P-6, lack of technical justification for location of the development in a designated landscape, where it would stand out from the existing forestry plantation in the visually prominent site, adversely affecting the visual amenities of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- 29th September 2021 – The report refers to the planning history of the site and the current policy context for the development. Notwithstanding that the development plan aims to facilitate high quality telecommunications in the county, it considers that the development would contravene Policy TC-P-6 (precludes new telecommunications support structures, antennae and dishes in areas of Especially High Scenic Amenity) and that the technical justification submitted does not serve to overcome the concerns regarding visual impact in the EHSA in terms of towering height above existing landscaping. No objections to access to site, public health issues or appropriate assessment if proposed mitigation measures are implemented. The report recommends refusing permission.

3.2.2. Other Technical Reports

- E.E. Roads (17th September 2021) – No objections.

3.3. Prescribed Bodies

- TII (24th August 2021) – No observations.

3.4. **Third Party Observations**

- None.

4.0 **Planning History**

4.1. Under ABP-307695-20 (PA ref. 20/50287) planning permission was refused by the Board for a 24m high multi-user lattice tower telecommunications structure on the appeal sites on the grounds that the development would fail to comply with policy TC-P-3 and TC-P-6 of the Donegal County Development Plan 2018-2024, and it had not been sufficiently demonstrated that special conditions apply to permit a new telecommunication mast at the location.

5.0 **Policy Context**

5.1. **National Guidance**

- National Planning Framework, 2018 – Acknowledge that telecommunications networks play a crucial role in enabling social and economic activity and the delivery of improved connectivity and broadband is critical in strengthening the rural economy and communities.
- Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996) – Section 3.2 deals with telecommunications and the development plan. It states that development plans should accept the importance of a high quality telecommunications service taking into account both National and regional considerations and indicate any locations where, for various reasons telecommunications installations would not be favoured or where special conditions would apply, including lands whose high amenity value is already recognised in the development plan. Section 4 deals with development control. The Guidelines state that great care will have to be taken in dealing with fragile or sensitive landscapes. In rural areas, towers and masts can be placed in forestry plantations provided that the antennae are clear of obstructions. Softening of the visual impact can be achieved

through judicious choice of colour scheme and through the planting of shrubs, trees etc as a screen or backdrop.

- Circular letter PL07/12 – This circular letter revises certain elements of the 1996 Guidelines. Section 2.3 refers to separation distances between telecommunications structures and sensitive sites, and states that development plans should not include separation distances as they can inadvertently impact on roll out of viable and effective telecommunications networks.

5.2. Donegal County Development Plan 2018-2024

- 5.2.1. The appeal site falls within an area that is designated as an area of Especially High Scenic Amenity (EHSA). Such areas are described as ‘ *sublime natural landscapes of the highest quality that are synonymous with the identity of County Donegal. These areas have extremely limited capacity to assimilate additional development*’. Policies in respect of natural heritage afford protection to landscapes and landscape character in the county and protect areas of EHSA from intrusive and/or unsympathetic development (NH-O-4, 5 and 7).
- 5.2.2. Policy NH-P-6 applies to areas of EHSA. It states, ‘ *It is a policy of the Council to protect areas identified as Especially High Scenic Amenity on Map 7.1.1: ‘Scenic Amenity’. Within these areas, only developments assessed to be of strategic importance or developments that are provided for by policy elsewhere in this Plan shall be considered*’.
- 5.2.3. Policies in respect of telecommunications are set out in section 5.3 of the Plan. The overall aim of the Plan is to facilitate the development of a high quality and sustainable telecommunications network for the County as a critical element to support growth in all areas of the economy and increase the quality of life for the people of the county, subject to environmental safeguards (policy TC-O-1 and TC-O2). Policy TC-P-3 regarding siting of masts states:

‘It is a policy of the Council to require the co-location of new or replacement antennae and dishes on existing masts and co-location and clustering of new masts on existing sites, unless a fully documented case is submitted for consideration, along with the application explaining the precise circumstances

which militate against co-location and/or clustering. New telecommunications antennae and support structures shall be located in accordance with the provisions of the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996, (or as may be amended) and they shall not normally be favoured within Areas of Especially High Scenic Amenity', (my emphasis).

- 5.2.4. TC-P-6 specifically precludes new telecommunications support structures, antennae and dishes in areas of Especially High Scenic Amenity '*It is a policy of the Council that proposals for new telecommunications support structures, antennae and dishes shall not be permitted within Areas of Especially High Scenic Amenity*'.
- 5.2.5. Policies and objectives of the Plan also afford protection to European, UK and national sites of nature conservation interest, designated shellfish waters and Freshwater Pearl Mussel Basins and peatlands (NH-O-2, -3, -6 and -11 and NH-P-1 and -4).

5.3. Natural Heritage Designations

- 5.3.1. The appeal site lies within a network of European and national sites:
- Muckish Mountain pNHA and SAC (site code 001179), c.300m to north.
 - Cloghernagore Bog and Glenveagh National Park pNHA and SAC (site code 002047) Derryveagh, c.300m to south east.
 - Derryveagh and Glendowan Mountains SPA (site code 004039), c. 300m to south east.
 - Sheephaven Bay pNHA and SAC (site code 001190), c.7km to the north east.
 - Fawnboy Bog/Lough Nacung pNHA and SAC (000140), c.8km to the west.
 - Horn Head and Rinclevan pNHA and SAC (00147), c.8.6km to the north.

5.4. EIA Screening

- 5.4.1. Having regard to the limited 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. Grounds of Appeal

6.1.1. Grounds of appeal are:

- Need/design. Telecommunications infrastructure is required in the area. Acknowledge the requirement for network improvements to address potential impacts on visual amenity. Proposed artificial tree solution has become more common in the country and is used where there are concerns in respect of visual impact.
- Visual impact. Visual impact of the development has been assessed at 14 viewpoints within the zone of influence of the site. The proposed development will be visible over a certain area owing to the location of the site and height of proposed artificial tree solution. Highest visual impact will be views within the immediate vicinity along the R256. Such impacts are considered to be medium to low given its location and the transient nature of views towards the structure. The visual impact from other locations is minimal by a combination of distances involved, natural screening through forestry and the mountainous topography of the area. Overall the equipment can be deployed without seriously injuring the visual amenity or character of the area.
- Principle of development/siting and design. 25m artificial tree type solution proposed as an alternative to previously refused lattice tower. Fake tree will improve coverage in the area and takes into consideration overall impact proposal will have on the area. Structure, height and compound size are the minimum necessary to ensure functionality at site specific location and within the identified search ring. Development is unmanned and will cause minimal increase in traffic movements (2-8 visits/pa from maintenance crew). Construction will result in additional vehicles over 2-4 weeks.
- Policy. Development consistent with policy TC-O-1. The development aims to create a sustainable telecommunications network in what is currently an

area of Donegal with poor network connectivity. Development is consistent with TC-O-3. There are no alternative sites in the area which facilitate co-location. Development is consistent with TC-O-6. Site is in an EHSA area. This is a very large area that has poor connectivity. Development is located in forestry, is proposed as an artificial tree, is located in the presence of natural screening and impact on the high scenic amenity area will be low.

Development is consistent with NH-O-4, NH-O-5, NH-P-6 and NH-O-7. The development is not a threat to the protection and management of landscape or to landscape character or to EHSA area. Development is consistent with NH-O-6, NH-O-11, NH-P-1 and NH-P-4 and will have no adverse effects on Shellfish waters, Pearl Mussel Bains, peatlands or designated sites of wildlife/habitat significance.

- Landscape sensitivity/environmental impact/appropriate assessment. As demonstrated in Natura Impact Statement, the development is not located in any European or nationally designated site and a range of mitigation have been incorporated into the design to avoid any impacts on European sites.
- Especially High Scenic Amenity Area. PA approach towards telecommunications structures in EHSA areas is acknowledged. However, given the circumstances, the location of the structure within a commercial forestry setting, new artificial tree option, nature of topography and adequate screening of proposals, it is unlikely to have any negative effect on the very large EHSA area. Visual impact appraisal concludes that the development will have slight to moderate impacts on visual amenity. Given poor network availability in the area, positive impacts outweigh negatives. PA has previously granted permission for telecommunication infrastructure in areas of EHSA (5 applications referred to). In accordance with Guidelines for Planning Authorities on Telecommunications Antennae and Support Structures, the coverage objectives of the operators Eir and Three dictate the location of the structure and a site needs to be positioned close to where the coverage problem is identified.

- Technical justification. Development will improve local 3G and 4G services and 5G technology in the area of the county, but its primary function is for infill coverage to the surrounding area, where there is a known coverage deficit.
- Construction management plan. Appended to submission and provides details on extent and duration of work, waste management etc.

6.2. **Planning Authority Response**

- 6.2.1. The planning authority, in response to the appeal, refer to the reasons for refusal and consider that the development proposal is unsuitable at the location having regard to the sensitive nature of the receiving landscape in which it is sited and that, by virtue of its appearance, scale and height, it would have an unacceptable impact and would adversely affect the visual amenities of the area. To permit the development would be detrimental to the preservation of outstanding scenic amenities in a sensitive rural landscape.

6.3. **Observations/Further Responses**

- None.

7.0 **Assessment**

- 7.1. Having inspected the appeal site, examined the application details and all other documentation on file and having regard to relevant national guidance and local planning policies, I consider that the main issues in this appeal can be confined to the matters raised by parties, namely visual impact of the development, within the context of its technical justification and national and local policies in respect of telecommunications infrastructure. I note that precedent cases are referred to by the appellant. However, these will have been decided on having regard to their site specific context, in particular for visual assessment. I do not consider, therefore, that they are directly relevant to the subject case.

7.2. Technical Justification

- 7.2.1. The appellant's technical justification for the development is set out in Vilicom's report 'Technical Justification' (21st May 2021) and Eir's report 'Technical Justification'. It is also supported by letters from Eir and Three.
- 7.2.2. Vilicom's report states that the proposed structure is designed to support mobile broadband, voice and data communications to allow Eir mobile to effectively deliver services to the local community and wider area. Specifically, the structure will bring a significant improvement in voice and broadband services (indoor and outdoor) to the area, particularly the R251, R256 and north side of Glenveagh National Park and surrounding regional roads, rural area, businesses, farms and housing (current service blackspots). The development will also allow multiple network operators to deploy 2G voice, 3G and high speed 4G broadband services, providing enhanced cover and more choice in terms of network providers. Section 3.2 of the report provides a current coverage map and a proposed coverage map with the subject development. Existing telecommunication sites in the surrounding area are identified on page 5 of the report, with none capable of providing coverage in the area.
- 7.2.3. Eir's Technical Justification Report states that current sites do not provide adequate service for good indoor high speed mobile broadband or voice services in the area. Current Eir indoor service is patchy with users experiencing missed calls or a poor quality service when indoors. Current and predicted coverage footprints show an increase in coverage mostly along the R251, R256 and northern side of Glenveagh National Park.
- 7.2.4. Correspondence from three and Eir support the provision on additional infrastructure in the area to provide better mobile phone and wireless broadband coverage to the R256, north of Glenveagh National Park.
- 7.2.5. From the information provided by the appellant, summarised above, and from experience in the area at the time of site inspection, I would accept therefore that there is patchy cover in the area and blackspots along the R251 and R256, north of Glenveagh National Park. Further, I would accept that existing masts are not capable of addressing existing blackspots as they are geographically removed from the area and frequently separated by mountainous terrain. However, there is no broader assessment of alternative sites within the search area or the site selection process

that resulted in the proposal on the subject site and in this respect the applicant's justification for the proposed development is weak.

7.3. Visual Impact

- 7.3.1. The appeal site lies within Landscape Character Area 25 Derryveagh Mountains Gaeltacht (see figure 3.1 of Visual Impact Assessment Report). It includes the Derryveagh Mountains to the north of Owenrea river, river Barra and Lough Beath and the Glendowan Mountains on the southern side of the valley. The landscape is described as one which contains *'many iconic images and unique landscapes that are instantly recognizable and have a strong association with the Donegal image'*.
- 7.3.2. Within the County Development Plan, the area in which the site lies is designated area of Especially High Scenic Amenity. These are described in the County Development Plan as *'sublime natural landscapes of the highest quality that are synonymous with the identity of County Donegal. These areas have extremely limited capacity to assimilate additional development'*. Section 7.1.1 of the Plan states *'Within each of the landscape classifications detailed above (EHSA, HSA and MSA) and along the interface between the designations there may be areas that do not fully meet the definition of the designation. Such anomalies in landscape designation shall be considered individually and in the context of all other objectives and policies contained within this Plan, should an application for development be submitted in these areas (excluding wind energy proposals or ancillary works). The onus shall be on the applicant to demonstrate that the site within which it is situated does not meet the characteristics of the landscape within which it is situated and that any development applied for shall not adversely affect the classification and value of the wider landscape'*.
- 7.3.3. Scenic views are shown in Map 7.1.1 of the Plan. No views are in the immediate area of the site, but there is one view towards it from the south east from the R251 (see attachments). Policy objectives NH-O- 5 and -6 and policies NH-P-7, NH-P-13 and NH-P-17 protect the character of the landscape, scenic amenity designations, views and prospects and areas of EHSA from unsympathetic development.
- 7.3.4. In the heart of the Derryveagh Mountains lies Glenveagh National Park, to the south of the appeal site and Calabber River (see attachments). Policy NH-P-14 of the

County Development Plan protects the character of approach roads to the park. These include the roads from Dunlewey to Termon (including R251) and from Muckish Gap and Cabiber Bridge (assume includes R256).

7.3.5. The landscape of the site and its immediate area is dominated by the backdrop of Muckish Mountain and the Derryveagh Mountains, wide open views of the valley, bogland, patches of scrub and blocks of coniferous plantation.

7.3.6. The applicant's Visual Impact Appraisal presents a visual assessment of the likely effect of the development, located within blocks of immature coniferous plantation, of c.4-6m in height, as seen from the public road network and Muckish Mountain walking trail in the area of the site (Figure 3.25, Visual Impact Assessment Report). Predicted impacts are:

- R251 (scenic route) – Intermittent effects on views from road. Slight impact due to distance of development and appearance of fake tree (material and colours blend with background), other plantation trees absorbing a portion of the fake tree, young trees concealing compound. With felling, affect on views in long term.
- Glenveagh National Park visitor centre – No effect (no visibility of site).
- R256 (scenic route) – Within c.1.5km of site increasing amount of fake tree visible approach the site, over young plantation (compound would be screened). In time surrounding plantation would absorb greater amount of fake tree. With felling fake tree exposed in the long term.
- L1003 (minor road to north east of site) – Views of fake tree (not compound) above existing young plantation. Some screening with backdrop. Longer term impacts with felling.
- L1322 (minor road to the east of the site) – Slight to medium change in views given distance from site, ability of landscape to absorb views. Once plantation felled impact may increase.
- Muckish walking trail – Upper section of tree visible from route but impacts would be intermittent. Amount of fake tree visible over time would reduce with plantation. Once plantation felled impact may increase.

- 7.3.7. Having regard to the information presented and inspection of the site as viewed from the surrounding road network I consider that the assessment accurately depicts the viewpoints from which the development will and will not be visible. I would also accept that the impacts are likely to arise in closer views, where the 25m structure would be visible above the existing immature plantation (4-6m) and where the scale of the structure is not contained by the wider plantation and/or mountainous backdrop.
- 7.3.8. The report states that without mitigation the proposal would constitute a significant impact on the exceptional landscape owing to the intensity of the change resulting from a discordant element in terms of scale being introduced into the panoramic setting within viewpoints once the plantation has been felled.
- 7.3.9. Mitigation measures set out in the Visual Impact Assessment Report, above and beyond the design and colour of the proposed structure to mimic a coniferous tree, are:
- To manage the plantation to reach maturity to conceal the compound and reduce the amount of fake tree that will be visible in the medium term,
 - Management of the surrounding plantation to include a felling free zone around the tower as a core to mitigate long term impact of rotational forestry,
 - Retention of strips of mature trees surrounding the plantation on the foothills to carry the visual weight of the fake tree and to aid harmonising with surrounding landscape,
 - Reducing the height to which the fake branches are positioned on the monopole to a level that matches the height of the young plantation, to help carry the change in scale and form across the plantation so that the development is absorbed more seamlessly,
 - Maintenance regime to ensure fake tree retains its appearance,
 - Minimise the amount of plantation removed to facilitate compound, and
 - Colour of boundary fence to reflect colour palette of plantation locally.
- 7.3.10. With the implementation of mitigation measures, the applicant predicts neutral to negative impacts range from imperceptible to moderate (Table 7.1).

- 7.3.11. Having regard to the appellant's assessment and inspection of the site, I would be concerned that in certain views from the public road network (notably R256, R251 and L1003), particularly when approaching the site, the proposed development would be visible above the canopy and substantially larger than the plantation and incongruous, in the natural landscape.
- 7.3.12. I would accept that the proposed mitigation measures have the potential to reduce the visual effects of the development. However, I am concerned that the proposed measures are neither defined nor assessed (in terms of consequential effect). For example, there is no indication of the felling free zone (e.g. height of trees, maintenance regime), retention strips or reduced height of fake tree branches. Given the sensitivity of the site and as the conclusions of the visual impact assessment are predicated on the implementation of mitigation measures, I do not consider that the appellant has adequately supported the conclusions drawn in the report. I am not satisfied, therefore, that the likely visual effects of the development are fully understood and that there is a risk of significant effects on the exceptional landscape in which the development is situated.

7.4. Policy Context

- 7.4.1. National planning policy and the County Development Plan acknowledge the need for and support the role out of telecommunications infrastructure in the country and to support the economic and social development of rural areas. Within this context, national guidelines, Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996) accept that in certain areas, a planning authority may indicate locations where telecommunications installations would not be favoured, such as high amenity land whose value is already recognised in the development plan.
- 7.4.2. Policy TC-P-3 requires the co-location of new telecommunications equipment on existing masts or sites, unless a fully documented case is submitted for consideration. It is also stated that such equipment will shall not normally be favoured within areas of Especially High Scenic Amenity. For the reasons stated above (technical justification), I am not satisfied that the applicant has demonstrated adequate reason for the selection of the subject site.

- 7.4.3. Policy TC-P-6 states that new telecommunications support structures, antennae and dishes will not be permitted within Areas of Especially High Scenic Amenity. Whilst the County Development Plan accepts that within each landscape classification there may be areas that do not fully meet the definition of the designation, this argument is not made by the appellant. In contrast, it is argued that the development would result in an imperceptible to moderate visual impact, depending on viewpoint and subject to mitigation measures.
- 7.4.4. As stated above, I am not satisfied that mitigation measures have been adequately defined or assessed. Consequently, I consider that there is a risk of unquantified and significant visual effects of the development on an exceptional landscape, contrary to policy TC-P-6 and to policies and objectives of the Plan which affords protection to landscape character and areas identified as EHSA.

8.0 **Appropriate Assessment**

8.1. **Stage 1 Screening**

- 8.1.1. Compliance. The requirements of Article 6(3) for screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are fully considered in this section.
- 8.1.2. Background. The applicant has submitted a Natura Impact Statement in respect of the proposed development. It does not include a screening exercise.
- 8.1.3. Likely significant effects. The proposed project is not directly connected with or necessary to the management of a European site. It is examined therefore in relation to any possible interaction with European sites and to assess whether it may give rise to significant effects on any European site.
- 8.1.4. The development and potential effects. The subject development is described in section 4 of the NIS. It comprises construction of a 25m telecommunications structure, associated compound and 25m access track, situated within an existing Coillte coniferous plantation which is already served by a 3m wide access track. Construction will take place over 2-4 weeks. A Temporary Traffic Management Plan will be put in place for the duration of works and a Construction Management Plan is submitted with the appeal.

8.1.5. It is stated in the NIS, that the site falls slightly to the north west towards a small drain which runs parallel to the access track. This drain joins a larger stream which passes immediately adjacent to Muckish Mountain SAC and discharges into Calabber River, south east of the site, close to the junction of the R256 and R251. From here Calabber River flows through Cloghernagore Bog and Glenveagh National Park SAC and Derryveagh and Glendowan Mountains SPA (Glen Lough), to ultimately outfall into Sheephaven Bay. The appeal site could also form part of the territory of mobile species of special conservation interest.

8.1.6. Works which could give rise to effects on European sites are referred to in the NIS and include the following, which I accept:

- Loss of habitat.
- Noise and disturbance.
- Impacts on water quality.
- Bird collision.
- Spread of invasive species.
- Cumulative effects.

8.1.7. Submissions and observations. None.

8.1.8. European sites and connectivity. European sites in the immediate area of the site are indicated in section 5.3 of this report. Having regard to the likelihood of connectivity between the subject site and these sites, in terms of the source-pathway-receptor model and mobile species, the appeal site is connected to the following three sites:

- Cloghernagore Bog and Glenveagh National Park SAC.
- Muckish Mountain SAC.
- Derryveagh and Glendowan Mountains SPA.

8.1.9. Neighbouring European sites, identified in section 5.3, are substantially removed from the appeal site and are not connected to it hydrologically. I am satisfied that these can be screened out on the basis that significant effects are highly unlikely.

- Sheephaven Bay pNHA and SAC (site code 001190).

- Fawnboy Bog/Lough Nacung pNHA and SAC (000140).
- Horn Head and Rinclevan pNHA and SAC (00147).

8.1.10. Qualifying interests. Qualifying interests of the three European sites where significant effects may arise, are shown below:

European Site	Qualifying interests
Cloghernagore Bog and Glenveagh National Park SAC	<ul style="list-style-type: none"> • Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) • Water courses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation • Northern Atlantic wet heaths with <i>Erica tetralix</i> • European dry heaths • Alpine and Boreal heaths • <i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) • Blanket bogs (* if active bog) • Depressions on peat substrates of the <i>Rhynchosporion</i> • Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles • <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) • <i>Salmo salar</i> (Salmon) • <i>Lutra lutra</i> (Otter) • <i>Trichomanes speciosum</i> (Killarney Fern)
Muckish Mountain SAC	<ul style="list-style-type: none"> • Alpine and Boreal heaths

	<ul style="list-style-type: none"> • Siliceous rocky slopes with chasmophytic vegetation
Derryveagh and Glendowan Mountains SPA	<ul style="list-style-type: none"> • Red-throated Diver (<i>Gavia stellata</i>) • Merlin (<i>Falco columbarius</i>) • Peregrine (<i>Falco peregrinus</i>) • Golden Plover (<i>Pluvialis apricaria</i>) • Dunlin (<i>Calidris alpina schinzii</i>)

8.1.11. Conservation Objectives.

8.1.12. *Cloghernagore Bog and Glenveagh National Park SAC.* This is an extensive inland site which includes a rich diversity of habitats and landscape features, including mountains, exposed rock and scree, blanket bogs, dry, wet and alpine heath, upland grassland, wet grassland, rivers, lakes, scrub and woodland. The Gweebarra fault bisects the area forming a long valley, orientated north-east to south-west, in which Lough Barra and Lough Veagh (Beagh) are situated. The area is generally mountainous, taking in most of the Derryveagh and Glendowan ranges and including the two highest mountains in Donegal, Errigal (751 m) and Slieve Snaght (678 m).

8.1.13. Conservation objectives are to maintain or restore the favourable conservation condition of the qualifying interests by reference to specific attributes and targets which include habitat area, distribution, diversity, vegetation composition, structure and distribution, hydrological regime and water quality. The appeal site lies in the catchment of the Freshwater Pearl Mussel (see attachments).

8.1.14. *Muckish Mountain SAC.* Muckish Mountain is a large flat-topped quartzite mountain with deposits of sand around it, which have been formed by the weathering of quartzite. Large areas of quartzite and schist scree occur on the mountainsides. Conservation objectives are to maintain the favourable conservation condition of the qualifying interests by reference to certain attributes and targets. These include habitat area, distribution, ecosystem function, vegetation composition, structure, physical structure and indicators of local distinctiveness.

- 8.1.15. *Derryveagh and Glendowan Mountains SPA.* Derryveagh and Glendowan Mountains SPA is an extensive upland site, comprising Glenveagh National Park, a substantial part of the Derryveagh and Glendowan Mountains and a number of the surrounding lakes. Much of the site is over 300 m above sea level, rising to a peak of 678 m at Slieve Snaght The solid geology is predominantly quartzite. The substrate over much of site is peat, with blanket bog and heath comprising the principal habitats. Conservation objectives are generic, to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for the SPA, Red-throated Diver, Merlin, Peregrine, Golden Plover and Dunlin.
- 8.1.16. Identification of Likely Effects. The appeal site lies within the same catchment of Cloghernagore Bog and Glenveagh National Park SAC and Muckish Mountain SAC (including the defined catchment for the Freshwater Pearl Mussel). Ground works have the potential to affect water quality in downstream sites and therefore to adversely affect water quality dependent habitats and species. Loss of habitat, physical works and the proposed structure may affect mobile species (e.g. birds, otter) by way of noise and disturbance and result in the spread of invasive species. There is also potential for bird collisions with the structure and cumulative effects with other development in the area.
- 8.1.17. Mitigation measures. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.
- 8.1.18. **Screening Determination**
- 8.1.19. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, and having regard to hydrological connectivity and the risk for disturbance to birds and mobile species, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant effect on the features of interest of Cloghernagore Bog and Glenveagh National Park SAC (site code 002047), Muckish Mountain SAC (site code 001179) and Derryveagh and Glendowan Mountains SPA (site code 004039), in view of the site's Conservation Objectives. An Appropriate Assessment is therefore required.

8.1.20. Having regard to the information on file, which I consider adequate in order to issue a screening determination, the absence of hydrological connectivity, modest scale of the development and distance of the subject site from European sites, it has been concluded that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on other European sites, including Sheephaven Bay SAC (site code 001190), Fawnboy Bog/Lough Nacung pNHA and SAC (000140) and Horn Head and Rinclevan pNHA and SAC (00147).

8.1.21. **Stage 2 Appropriate Assessment**

8.1.22. Natura Impact Statement. The application includes a Natura Impact Statement (NIS). It examines and assesses the potential for adverse effects on Cloghernagore Bog and Glenveagh National Park SAC, Muckish Mountain SAC and Derryveagh and Glendowan Mountains SPA (site code 004039). The NIS provides information on the conservation interests of the three sites, water quality which supports the qualifying interests for Cloghanagore Bog and Glenveagh National Park SAC and results of site survey carried out in July 2020 to identify the habitats, flora and fauna present on the site. It examines the potential for impacts arising from habitat loss, noise and disturbance, impacts on water quality, bird collision, invasive species and cumulative effects. The report refers to mitigation measures to be implemented during construction and concludes that the proposed development will not have an adverse effect on the integrity of the three sites or any other European site, alone or in combination with other plans or projects, and that there is no reasonable scientific doubt in relation to the conclusion.

8.1.23. Having reviewed the NIS and documents on file I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the three European sites carried forward for appropriate assessment.

8.1.24. Appropriate Assessment of implications of proposed development. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the screened in European sites using the best scientific knowledge in the field. All aspects of the project which could result in

significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

8.1.25. Aspects of the proposed development. As stated, impacts on European sites could arise from:

- Loss of habitat.
- Noise and disturbance.
- Impacts on water quality.
- Bird collision.
- Spread of invasive species.
- Cumulative effects.

8.1.26. Assessment of effects and mitigation measures.

8.1.27. *Habitat loss.* The appeal site comprises conifer plantation, wet grassland (alongside plantation) and drainage ditch. The NIS states that species of conservation interest for Derryveagh and Glendowan Mountains SPA (Merlin, Golden Plover, Red-throated Diver and Dunlin) could potentially nest within trees or blanket bog on or near the proposed development site and forage within the site. No invasive species were identified in the site survey and there were no signs of mammals or habitat of value to otter (in or near to site). No nest or evidence of nesting by birds of special conservation interest were recorded.

8.1.28. Having regard to the small area of land take and the presence of similar habitats in the wider area and absence of evidence of use of the site by birds of conservation interest, impacts on the SCI of the Derryveagh and Glendowan Mountains SPA, by way of habitat loss or fragmentation are unlikely.

8.1.29. *Noise and disturbance.* Section 8.2 of the NIS deals with the potential for disturbance to birds of SCI as a result of construction and operation. Essentially it accepts that some level of disturbance may occur, with research indicating variety in effects depending on multiple factors. A short construction phase of 2-4 weeks is proposed and as a precautionary approach works will take place between April to June (section 9.5, NIS) to avoid the peak breeding period for SCI. Having regard to the foregoing, including the absence of evidence of demonstrable use of the site by

SCI, the presence of alternative habitat in the wider area, short period of construction and proposed mitigation measures, adverse effects on bird species of SCI of the Derryveagh and Glendowan Mountains SPA are unlikely from noise, disturbance and or displacement during construction.

- 8.1.30. Construction works have the potential to affect otter with reduced connectivity between areas upstream and downstream of the site. However, as animals are nocturnal, works will take place during daylight hours, utilise least noisy equipment and are for a short duration, adverse effects on mobile species of SCI for Cloghernagore Bog and Glenveagh National Park SAC (otter) are unlikely.
- 8.1.31. *Water quality.* Potential impacts on water quality may arise from construction and operation with risk of increased sedimentation and hydrocarbons/contaminants in any water discharged from the site. Such emissions could impact on the downstream aquatic environment, including the sensitive Freshwater Pearl Mussel. The applicant proposes a construction waste management plan and detailed arrangements for the storage of any fuel/potential pollutants, refuelling, use of collection systems (sediment control), control of concrete use, spillage procedures, soil storage etc. Subject to the detailed implementation of these measures adverse effects on water quality are unlikely, or therefore significant effects on the conservation interests of downstream European sites including Muckish Mountain SAC, Cloghernagore and Glenveagh National Park SAC and Derryveagh and Glendowan Mountains SPA.
- 8.1.32. *Bird Collisions.* Section 8.4 of the NIS reviews literature on the risk of collisions with taller structures, including telecommunications masts. It considers that foraging flights for divers, Red-throated Diver, and wading birds, Dunlin and Golden Plover are generally below 5m and outside of their migration flights that they are generally not susceptible to collision with tall structures. For raptors, Merlin and Peregrine Falcon, research has tended to focus on wind farms with risk of collision with taller structures, particularly on flight corridors between roosting and feeding areas. The NIS states that the proposed development is located at a low elevation (c.200m AOD) relative to the surrounding landscape, is surrounded by forestry plantation and has no lighting or moving parts (which increase the risk of collision). Further, it states that there is no evidence to suggest that the site is of particular value to

raptors or other species of SCI, with no signs of SCI species recorded during the site visit and no valuable habitat on or near the site.

- 8.1.33. The NIS concludes, and there are no submissions or observations on file to the contrary, that on the basis of scientific evidence available, that the development poses little collision risk to SCI in the nearby European sites.
- 8.1.34. *Invasive species.* No invasive species were found on site and risk of spread to European sites is unlikely. However, in order to prevent the introduction of species to the site, additional mitigation measures could be required by condition, should the Board decide to grant permission.
- 8.1.35. *Cumulative impacts.* Table 15 of the NIS sets out plans and projects that have the potential to give rise to cumulative effects with the subject development. Reference is made to programmes, plans and projects in the area. Of note, most of the programmes and plans refer to policy documents by statutory bodies, with environmental policies to protect resources. No developments granted planning permission are identified in the previous 24 month period in local townlands. Key threats to European sites include peat extraction, silviculture/forestry and recreation, quarrying, grazing and urbanisation.
- 8.1.36. Having regard to the foregoing, I am satisfied that there is no significant risk of cumulative effects on the conservation interests of European sites carried forward for appropriate assessment.
- 8.1.37. **Appropriate Assessment Conclusion**
- 8.1.38. The subject development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Muckish Mountain SAC, Cloghernagore and Glenveagh National Park SAC and Derryveagh and Glendowan Mountains SPA.
- 8.1.39. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these sites in light of their conservation objectives.

8.1.40. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of these, or any other European site, in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects. In particular, it has had regard to:

- The nature of the existing site, as a young forestry plantation,
- The absence of demonstrable use of the site by species of SCI,
- The modest scale of the development,
- Duration and timing of construction phase, and
- The proposed mitigation measures.

9.0 Recommendation

9.1. I recommend that permission for the development be refused.

10.0 Reasons and Considerations

Having regard to the provisions of the Donegal County Development Plan 2018-2024, including the location of the site in an area identified as being of Especially High Scenic Amenity, it is considered that the proposed development would fail to comply with policy TC-P-3 of the Donegal County Development Plan 2018-2024, which outlines that new telecommunications masts within areas of Especially High Scenic Amenity are not normally favoured, and policy TC-P-6 which does not permit new telecommunications masts within Areas of Especially High Scenic Amenity. Furthermore, based on the guidance contained within the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996), and despite the proposed design of the structure as an artificial pine tree, it has not been sufficiently demonstrated that special conditions apply to permit a new telecommunication mast at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann
Planning Inspector

7th April 2022