



An
Bord
Pleanála

Inspector's Report

ABP-312196-21

Development	to erect a 24m high lattice telecommunications support structure together with associated telecommunications equipment all enclosed in security fencing.
Location	Quinville South, Quin, Co Clare.
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	211032
Applicant(s)	Vantage Towers Ltd
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Vantage Towers Ltd
Observer(s)	Quin Heritage Group and Quin Tidy Towns Lorraine Granger Sharon Curley & Aiden Gorman Justin & Angela McAteer

Jean Dunne on behalf of Quin

Residents Group

Liz Condon on behalf of concerned
residents

Lynn O'Sullivan

Ger O'Halloran

Date of Site Inspection

31st of March 2022

Inspector

Adrian Ormsby

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1.0 Site Location and Description

- 1.1. The site is located to the north of Quin. Quin is a Large Village and well known tourist location in County Clare c. 10km east of Ennis.
- 1.2. The site is located within the village settlement boundary on a locally elevated and prominent part of the village to the rear of existing buildings that terminate the main street. It is accessed by an existing agricultural style access laneway from the L-3148 local road, c. 25m west of its junction with the R469 that connects Ennis to Quin.
- 1.3. The site is on elevated lands that appear to be in existing agricultural use. The site is to the rear of existing buildings that include residential properties and a public house. The site is located directly next to an existing water tower structure c. 15m high with existing telecommunications infrastructure atop. The site abuts the rear boundary of a stone finish two storey stone finish building that appears to be in residential and commercial use (butcher).
- 1.4. A large number of residential properties within the Manor View and Dun Na Manach housing estates are located c. 60-200m south west and north west of the site.

2.0 Proposed Development

- 2.1. The proposal comprises off-
 - a 24m high lattice telecommunications support structure
 - antennas, dishes and associated telecommunications equipment and
 - 2.4m palisade security fencing
- 2.2. The Planning Authority did not seek Further Information

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission on the 19th of November for four reasons as follows-

1. The proposal site is located on lands zoned Open Space in the Quin Settlement Plan as contained in the Clare County Development Plan 2017-2023 (as varied). It is intended that lands zoned open space will be retained as undeveloped open space, mainly for passive open space related activities.

It is considered that the proposed development materially contravenes the zoning of the site, is therefore contrary to Objective COP19.3 Compliance with Zoning of the County Development Plan and would be contrary to the proper planning and development of the area

2. The proposal site occupies an elevated and visually prominent site in the local streetscape/landscape. The site also directly adjoins the Architectural Conservation Area in the village where, under Objective CDP15.5 of the Clare County Development Plan 2017-2023 (as varied) it is an objective *to ensure that new developments within or adjacent to an ACA respect the context of the area and contribute positively to the ACA in terms of design, scale, setting and material finishes*

It is considered that the proposed development, by virtue of its siting and scale, would dominate the Architectural Conservation Area, inherently alter the character of the village and have a severe negative impact on the visual amenities of the area.

The proposed development would therefore be contrary to Objective CDP15.5 of the County Development Plan and would be contrary to the proper planning and sustainable development of the area.

3. It is an objective, under CDP8.44 of the Clare County Development Plan 2017-2023 (as varied) 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)'

The said guidelines for Planning Authorities state:

Only as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should tree-standing masts be located in a residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure.

Having regard to height and design of structure and the location in close proximity to a number of residential properties, it is considered that the proposed development would be contrary to both CDP8.44 of the Clare County Development and Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996. The proposed development would therefore have a negative effect on the residential of the area and be contrary to the proper planning and sustainable development of the area.

4. It is an objective under CDP15.8 of the Clare County Development Plan 2017-2023 (as varied) to *inter alia* safeguard sites, features and objects of archaeological interest and to permit development only where the Planning Authority is satisfied that the proposal will not interfere with items of archaeological or historical importance.

The proposed development site is located entirely within the Zone of Notification for RMP CL042-027 (settlement deserted- medieval). In the absence of a detailed Archaeological Impact Assessment (including archaeological test excavation and a visual impact assessment), the Planning Authority was unable satisfactorily determine that the proposed development would not have a negative impact on the archaeological heritage of the area.

The proposed development would therefore be contrary to Objective CPD15.8 Sites, Features and Objects of Archaeological Interest of the Clare County Development Plan 2017-2023 (as varied) and would be contrary to the proper planning and development of the area.

4.0 Planning Authority Reports

4.1. Planning Reports

The report of the Planning Officers (18th of November 2021) reflects the decision of the Planning Authority. The following is noted from the report-

- The site is identified as OS11 with an Open Space zoning. The proposal is considered to be a material contravention of the zoning of the site.
- Volume 10(a) Natura Impact Assessment of the County Development Plan indicates that OS11 land will remain undeveloped.
- With the exception of one public house (Village Inn) all of the roadside buildings in the vicinity of the site are in residential use. Manor View housing estate is located approximately 80m west of the site. It is considered reasonable to determine the proposed structure to be located in a 'residential area' and therefore contrary to the guidance set out in the Telecommunication Antennae and Support Structures: Guidelines for Planning Authorities, 1996.
- The site is located within an Archaeological Complex in the village. The Development Application Unit require a visual impact assessment and excavation of test trenches. In the absence of same it cannot be determined the proposal would not negatively impact on archaeological heritage of the area.
- The impact of the development on the ACA and visually on the village is a serious concern. The structure will be prominent on the skyline on all approach roads to the village. The site directly adjoins the ACA. The screening proposal is of little merit. The proposal will be visually obtrusive from all vantage points in the village. Its siting will dominate the ACA.
- The proposal will have an overbearing, imposing effect when viewed from adjoining properties to the east and will cause serious disamenity to same.
- The report includes an Appropriate Assessment Screening Determination. It identifies the Poulmagordan Cave SA and the Annex II Lesser Horseshoe Bat.

It considers there are no likely direct or indirect effects due to the nature, scale and location of the proposed development.

4.2. Other Technical Reports

- Chief Fire Officer
 - No objections
- Senior Executive Engineer, Killaloe Municipal District
 - Proposed access on a bend with insufficient sightlines. Further Information requested
- Transportation and Roads Design Office
 - Further information required
- Environment Section
 - No water or wastewater services so no comments.

4.3. Prescribed Bodies

- Development Applications Unit
 - Further information requested including an Archaeological Impact Assessment with test excavations and a Visual Impact Assessment
- Irish Aviation Authority-
 - There is no requirement for obstacle lighting
- Irish Water-
 - No objection
 - Observation - Existing water tower not currently in operation adjacent to site. Ensure no existing watermains are effected by construction.

4.4. Third Party Observations

There were ten third party submissions and the majority of the issues raised can be summarised as follows-

- Visual Impact and proximity to ACA
- Impacts on Residential Amenity
- Proximity to residential areas and devaluation
- Incorrect and inaccurate details in the application
- Contrary to the Development Plan and the Telecommunication Guidelines
- Negatively impact upon the character of the village
- Health concerns
- There is no need for the development as high quality broadband is available.
- Potential impacts on bats
- Access to the site and traffic concerns
- Legal interest in the site.

5.0 Planning History

- None

6.0 Policy Context

6.1. National and Regional Policy and Ministerial Guidelines

6.1.1. National Planning Framework

National Policy Objective 48 states-

‘In co-operation with relevant Departments in Northern Ireland, develop a stable, innovative and secure digital communications and services infrastructure on an all-island basis.’

The NPF sets out National Strategic Outcomes including Strengthened Rural Economies and Communities. In this regard the NPF states-

‘.....improved connectivity, broadband and rural economic development opportunities are emerging which offer the potential to ensure our countryside remains and strengthens as a living and working community.’

6.1.2. **Regional Spatial & Economic Strategy for the Southern Region**

Section 6.2 deals with Digital Connectivity and states-

‘Enhanced quality and provision of digital and mobile telecommunications infrastructure is critical for the revitalisation of cities, towns, villages and rural areas. Developments in information and communications technology (ICT) continues to fundamentally change how our society and economy functions.’

The policies in the RSES are structured under Regional Policy Objectives (RPOs)

RPO 137 deals with Mobile Infrastructure and states-

It is an objective to strengthen the continued delivery of high-speed, high-capacity digital and mobile infrastructure investment in our Region and strengthen cross regional integration of digital infrastructures and sharing of networks.

6.1.3. **Telecommunication Antennae and Support Structures: Guidelines for Planning Authorities 1996**

These Guidelines set out the criteria for the assessment of telecommunications structures. The relevant points to this application and appeal are summarised below.

- planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds. These are regulated by other codes and such matters should not be additionally regulated by the planning process.
- An authority should indicate any locations where telecommunications installations would not be favoured or where special conditions would apply. Such locations might include high amenity lands or sites beside schools (Section 3.2).
- Along major roads or tourist routes, *‘views of the mast may be intermittent and incidental, in that for the most of the time viewers may not be facing the mast.’* (Section 4.3).
- In relation to villages (e.g. Quin) section 4.3 the Guidelines specifically state-

- *‘Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation.*
- Following on from the above section 4.3 also states-
 - *Only as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure.*
- The sharing of installations and clustering of such facilities are encouraged as co-location will reduce the visual impact on the landscape (Section 4.5). Developers will have to demonstrate that they have made a reasonable effort to share the use of the same structure or building with competing operators

6.1.4. **Circular Letter PL07/12 (October 2012)**

This Circular Letter revises elements of the 1996 Guidelines including-

- attaching a condition to a permission for a telecommunication mast and antennae which limit their life to a set temporary period should cease, except in exceptional circumstances.
- planning authorities should also cease specifying separation distance for such developments when making Development Plans as they can inadvertently have a major impact on the roll-out of viable and effective telecommunications network.

- planning authorities should be primarily concerned with the appropriate location and design of telecommunication structures and do not have the competence for health and safety matters in respect of telecommunication infrastructure. These are regulated by other codes and such matters should not be additionally regulated in the planning process.
- Development Contribution Schemes must include waivers for broadband infrastructure and these waivers are intended to be applied consistently across all local authority areas.

6.1.5. **Architectural Heritage Protection Guidelines for Planning Authorities (2011)**

6.2. **Clare County Development Plan 2017-2023**

6.2.1. The site is governed by the policies and provisions contained in the Clare County Development Plan 2017 to 2023. Table 2.1 of the Plan sets out the Settlement Hierarchy for County Clare. Quin is identified as a Large Village in the Ennis Municipal District. The village settlement boundary is identified in the Quin Settlement Plan which also identifies the subject application site within the boundary and on lands zoned 'Open Space'.

6.2.2. CDP19.3 Development Plan Objective: Compliance with Zoning states-

'It is an objective of Clare County Council:

To require development proposals to comply with the zoning of the subject site in the settlement plans and local area plans.'

6.2.3. Section 19.4 of the County Development Plan (CDP) deals with 'Nature of Zonings' for the County and in relation to 'Open Space' states-

'It is intended that lands zoned 'open space' will be retained as undeveloped open space, mainly for passive open space related activities. The open space/park areas could contain active play facilities such as children's play areas but these would only be a small component of the overall areas involved.'

In relation to 'Utilities/Infrastructure Safeguard' it states-

It is intended that land zoned 'utilities' and 'infrastructure safeguard' will be reserved for the existing and future provision of key infrastructural services and the upgrading of existing services and infrastructure relating to road, rail, air, electricity, telecommunications, gas, water and waste water treatment services.

- 6.2.4. Section 19.5.4 of the CDP deals with 'Uses not listed in the Indicative Zoning Matrix' and details that-

land-uses which are not listed in the indicative land-use zoning matrix will be considered on a case-by-case basis having regard to the proper planning and sustainable development of the area and compliance with the relevant policies and objectives, standards and requirements as set out in this Clare County Development Plan 2017-2023, guidelines issued in accordance with Section 28 of the Planning and Development Act, 2000 (as amended) and guidance issued by other government bodies/ sections.

- 6.2.5. Appendix 2 of the CDP outlines the Indicative Land Use Zoning Matrix. Telecommunications structures are not listed.

- 6.2.6. Section 8.8.10 of the CDP deals with Telecommunications Infrastructure. The following objective is relevant-

- CDP8.44 Telecommunications Infrastructure, 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).''

- 6.2.7. Other relevant objectives include-

- CDP10.6 Broadband

It is an objective of the Development Plan: To advocate for, and facilitate the extension of, broadband infrastructure throughout the County and encourage e-commerce and IT telecommunications in support of rural enterprise.

- CDP15.11 Archaeology and Infrastructure Schemes

'It is an objective of Clare County Council: To have regard to archaeological concerns when considering proposed service schemes (including electricity, sewerage, telecommunications and water supply) and proposed roadworks (both realignments and new roads) located in close proximity to Recorded Monuments and Places and Zones of Archaeological Potential.'

6.2.8. Chapter 15 of the Development Plan deals with Architectural, Archaeological and Cultural Heritage.

- CDP15.5 Development Plan Objective: Architectural Conservation Areas (ACAs) states- *It is an objective of the Development Plan:*

a. *To ensure that new developments within or adjacent to an ACA respect the context of the area and contribute positively to the ACA in terms of design, scale, setting and material finishes;*

b. *To protect existing buildings, structures, groups of structures, sites, landscapes and features such as street furniture and paving, which are considered to be intrinsic elements of the special character of the ACA, from demolition or removal and non-sympathetic alterations;*

c. *To ensure that all new signage, lighting, advertising and utilities to buildings within an ACA are designed, constructed and located in a manner that is complementary to the character of the ACA;*

d. *To ensure that external colour schemes in ACAs enhance the character and amenities of the area and reflect traditional colour schemes.*

- Objective 15.8- Sites, Features and Objects of Archaeological Interest states-

'It is an objective of Clare County Council:

a. *To safeguard sites, features and objects of archaeological interest generally;*

b. *To secure the preservation (i.e. preservation in situ or in exceptional cases preservation by record) of all archaeological monuments included in the Record of Monuments and Places as established under Section 12 of the National Monuments (Amendment) Act, 1994, and of*

sites, features and objects of archaeological and historical interest generally (in securing such preservation, the Council will have regard to the advice and recommendations of the Department of the Arts, Heritage, Regional, Rural and Gaeltacht Affairs);

c. *To permit development only where the Planning Authority is satisfied that the proposals will not interfere with:*

- *items of archaeological or historical importance;*
- *the areas in the vicinity of archaeological sites;*
- *the appreciation or the study of such items.*

d. *To have regard to the government publication ‘Framework and Principles for the Protection of the Archaeological Heritage 1999’ in relation to protecting sites, features and objects of archaeological interest;*

e. *To advocate for greater financial assistance for the maintenance and improvement of features of archaeological interests in County Clare.’*

6.2.9. The site is located just outside the Quin Architectural Conservation Area (ACA).

- Appendix 4 of the CDP- Architectural Conservation Areas-

In acknowledgement of Quin’s outstanding architectural heritage, the village core has been designated as an ACA. This designation is designed to positively assist the conservation management of the central area which is a considerable economic asset to the village in terms of its tourist profile.

6.3. Natural Heritage Designations

There are no relevant designated areas within the vicinity of the site. The site is however located-

- c. 1km north west of the Poulmagordon Cave (Quin) SAC (000064)
- c. 3.7 km north east of the Lower River Shannon SAC 002165
- c. 3.7 km north east of the River Shannon and River Fergus Estuaries SPA (004077)

6.4. EIA Screening

- 6.4.1. An Environmental Impact Assessment Screening report was not submitted with the application. A telecommunications mast such as that proposed is not listed as requiring mandatory EIA as per Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended). By reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

7.0 The Appeal

7.1. Grounds of Appeal

A first party appeal has been received. The grounds of appeal can be summarised as follows-

- The grounds for appeal are provided under Section 37 (2) b (iii) of the Planning and Development Act 2000 as amended. Permission should be granted having regard to the regional spatial and economic strategy for the area, Guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister, or any Minister of the Government.
- Vodafone has 3G coverage of fair and 4G coverage of fair to fringe in and around Quin as per the ComReg Map supplied. This area of weak coverage requires necessary infrastructure. Vodafone also wish to provide 5G coverage. A minimum height of 24m is required.
- The application site meets the applicants criteria for site selection and service provision. Its siting close to the water tower can be considered clustering. The water tower was considered but is too low and can't accommodate the required equipment.
- A lattice structure accommodates more equipment and will accommodate other operators.

- 5G services offers high downloading and uploading speeds and allows access for multiple devices at the same time. 5G will benefit everyone.
- The sites location on open space zoning is acknowledged but is considered to take up an insignificant area and adjoins the water tower. There isn't another relocation within the settlement boundary that would recognise the suitability for a communications structure. Commercial zoning in Quin is unsuitable. One is fully occupied and the other has environmental sensitivities due to its proximity to a SAC and NHA.
- The Indicative Landuse Zoning Matrix in Appendix 2 of the Development Plan does not include Telecom structures.
- The only suitable location is considered within open space and next to an existing tall structure.
- Although ACA's should be recognised and important historical buildings protected and preserved this should not be at the cost of further development and economic growth. The proposed site can meet demands for mobile and data coverage and its location ensures unobstructed views from the roads of Quin Abbey.
- It is submitted the Telecommunication Guidelines of 1996 and Circular Letter PL07/12 were written at a time when the rate of growth within the communications business was underestimated. It is now necessary for more infrastructure to locate in urban areas. In many smaller towns and villages rooftops are often too low or not available. Such installations are usually exempt and preferred by operators.
- To secure necessary coverage the site needs to be located within or as close to the village as possible. The closest developed sites are 4km and 8km away.
- Locating beside the water tower is the only realistic location for the proposed development in terms of technological and planning requirements.
- It is acknowledged the proposal will create a level of visual impact. This impact will be hidden at times and intermittent at other times. It is clustered with the water tower.

- It is not uncommon to undertake works of development within areas within Zones of Notification for Archaeological purposes. The Applicants would follow the procedures necessary. The site is next to the water tower which when built is likely to have disturbed the land in question. It is likely any items of interest will be found in this area.
- A number of third party representations were made by local residents referring to public health and other non-planning issues.
- There is national and regional policy support for such developments
- The Applicants propose through the appeal a reduction in height from 24m to 21m in mitigation to uphold the attractiveness and integrity of Quin as a heritage centre.

7.2. Planning Authority Response

The planning authority's response to the grounds of appeal received by email on the 12/01/22 and letter on the 13/01/22 can be summarised as follows-

- The Planning Authority acknowledge that a multitude of national, regional and local policy documents proactively advocate for the expansion of the communications network.
- the nature of the current proposal and the location of the development site are wholly inappropriate and would result in significant negative impacts on the village of Quin.
- The proposal contravenes the Open Space zoning of the site and is contrary to S28 guidelines on telecommunications support structures.
- The proposal would also have a significant negative impact on residential amenities, visual amenities, built and archaeological heritage.
- The Planning Authority respectfully requests the Board to uphold the decision.

7.3. Observations

Eight observations were received from-

- i. Quin Heritage Group and Quin Tidy Towns,

- ii. Lorraine Granger and others
- iii. Sharon Curley & Aiden Gorman,
- iv. Justin & Angela McAteer,
- v. Jean Dunne on behalf of Quin Residents Group,
- vi. Liz Condron on behalf of concerned residents,
- vii. Lynn O'Sullivan and
- viii. Ger O'Halloran.

The relevant planning issues raised by observers can be summarised as follows:

- The observations should be considered with the third party submissions made to the Planning Authority.
- The need for the application has not been justified. There may be alternative more suitable sites available. A report by Vodafone identifying the suitability of the site has not been provided. There are questions why no other operators have supported this application and co-location or sharing of existing infrastructure. A map identifying a number of possible elevated sites is provided all outside of the settlement boundary.
- There is an existing mast directly opposite the site, recently erected by Eircom at a lower height but highly visible.
- The application does not comply with Objectives PIO18 and PIO25 of the Development Plan
- Quin enjoys broadband speeds of up to 100mps
- Reference to national policy is general and not site specific.
- Quin is an important tourist and heritage town with significant archaeological value. It has a designated Architectural Conservation Area (ACA) adjacent to the site. The proposal will have a significant and negative visual impact on the village, would be visually obtrusive, dominant and overbearing. There will be nothing to ameliorate the visual aspect of the development. It will be out of character with the village.

- The proposal is located in close proximity to residential areas and will impact upon residential amenity including views from a number of houses and the valuation of property.
- The height of the mast is equal to the separation distance of a multiplicity of residences in the village.
- The application lacks a visual impact assessment
- There are four Lesser Horseshow Bat roosts surrounding the village which are protected by national and EU legislation. The site is located at the centre of a Special Area of Conservation i.e. Poulmagordon Cave SAC. The development may affect flightpaths and some bats nest in a house opposite the site.
- It is intended to make the old Barracks/Quin House a protected structure in the 2023-2029 County Development Plan. The proposal would be intrusive and highly visible from this structure.
- The revised height of 21 metres is likely to mean additional technology requirements and attachments having regard to exempted development provisions.
- There are concerns relating to disruption of radio/tv and existing phone signals in the immediate area.
- No consideration has been given to temporary permissions which lead to further difficulties.
- No community engagement was sought.
- Permission was refused in 1198 for a 30m telecommunications structure.
- Impact of construction works on the stability of the existing water tower.
- Public health concerns relating to increased radiation.

8.0 Assessment

8.1. Introduction

8.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Refusal Reason 1- Principle of Proposal
- Refusal Reason 2- Architectural Conservation Area and Visual Impact
- Refusal Reason 3- Compliance with National Guidance
- Refusal Reason 4- Archaeology
- Material Contravention
- Impact on Bats
- Appropriate Assessment.

8.2. Refusal Reason 1- Principle of Proposal

8.2.1. The Planning Authority have considered the development of the proposed structure to be a material contravention of the 'open space' zoning of the site and would be contrary to 'CDP19.3 Development Plan Objective: Compliance with Zoning' which states-

'It is an objective of Clare County Council:

To require development proposals to comply with the zoning of the subject site in the settlement plans and local area plans.'

8.2.2. In their appeal, the Applicants have acknowledged the siting of the structure on 'open space' zoned lands but contend the site takes up an insignificant area and adjoins the water tower. They refer to section 37 (2) b (iii) of the Planning and Development Acts and argue permission should be granted having regard to the Regional Spatial and Economic Strategy for the area, guidelines under section 28 and policy directives under section 29.

- 8.2.3. The application site is located within the Quin settlement boundary and on lands zoned 'Open Space'. The Planning Authority's planning report details the site is identified as OS11. I have not been able to identify this referencing for the lands in Quin on the zoning maps before me. I do not consider this will have a material bearing on this assessment as the overall open space zoning remains clear.
- 8.2.4. I note the application site area is 0.01ha and does form a very small part of the overall lands zoned 'Open Space'. The site also directly abuts the lands to its west in which the existing water tower is located and that these lands are zoned 'Utilities'.
- 8.2.5. Volume 1 Section 19.4 of the County Development Plan (CDP) deals with 'Nature of Zonings' for the County and in relation to 'Open Space' states-

'It is intended that lands zoned 'open space' will be retained as undeveloped open space, mainly for passive open space related activities. The open space/park areas could contain active play facilities such as children's play areas but these would only be a small component of the overall areas involved.'

- 8.2.6. Section 19.4 of the CDP also provides clarity around lands zoned Utilities/Infrastructure Safeguard i.e. the lands just west of the site where the water tower is located. This states-

It is intended that land zoned 'utilities' and 'infrastructure safeguard' will be reserved for the existing and future provision of key infrastructural services and the upgrading of existing services and infrastructure relating to road, rail, air, electricity, telecommunications, gas, water and waste water treatment services.

It is clear such lands are zoned for telecommunications use amongst others.

- 8.2.7. Appendix 2 of the CDP provides an 'Indicative Land Use Zoning Matrix'. This matrix indicates how different types of development may be considered on the different land-use zonings by classifying whether the proposed use is acceptable in principle, or otherwise, on lands that are zoned for a particular use. Telecommunications structures are not listed in the Matrix.
- 8.2.8. Section 19.5.4 of the CDP deals with 'Uses not listed in the Indicative Zoning Matrix' and details that-

'land-uses which are not listed in the indicative land-use zoning matrix will be considered on a case-by-case basis having regard to the proper planning and sustainable development of the area and compliance with the relevant policies and objectives, standards and requirements as set out in this Clare County Development Plan 2017-2023, guidelines issued in accordance with Section 28 of the Planning and Development Act, 2000 (as amended) and guidance issued by other government bodies/ sections.'

- 8.2.9. Having considered that above it is clear to me that the Planning Authority have identified lands zoned as 'Utilities/Infrastructure Safeguard' to be suitable for developments such as the proposed telecommunications structure. The requirement detailed in the CDP for land zoned 'Open Space' to be retained as undeveloped open space, mainly for passive open space related activities does not provide for development of a telecommunications structure regardless of the small size of the application site or its proximity to suitably zoned lands. I also note its siting and security fencing will not provide a use compatible with passive open space.
- 8.2.10. The proposed development would therefore materially contravene the OS 'open space' zoning objective for the site and accordingly should be refused.

8.3. Refusal Reason 2- Architectural Conservation Area and Visual Impact

- 8.3.1. The Planning Authority's second refusal reason relates to the elevated and visually prominent nature of the site which directly adjoins an Architectural Conservation Area (ACA). In this regard they considered the proposal would be contrary to Objective CDP of the Development Plan which seeks to

"To ensure that new developments within or adjacent to an ACA respect the context of the area and contribute positively to the ACA in terms of design, scale, setting and material finishes"

They also consider the mast would dominate the ACA inherently altering the character of the village and have a severe negative impact on the visual amenities of the area.

- 8.3.2. The Applicants contend that ACA's should be recognised and important historical buildings protected and preserved but this should not be at the cost of further development and economic growth. The proposed site can meet demands for mobile

and data coverage and its location ensures unobstructed views from the roads of Quin Abbey.

- 8.3.3. Given the sites sensitive architectural setting it is a surprise to see the application and appeal is not accompanied by a Visual Impact Assessment to include photomontages.
- 8.3.4. In terms of design, the appeal reduces the height of the mast from 24m to 21m. It is a lattice style structure with a number of identified antenna. The overall design is typical of such structures and are becoming more and more commonplace throughout both rural and urban areas of Ireland.
- 8.3.5. The application site abuts the north western side of the designated Quin ACA which generally includes the central built up area of the village. Appendix 4 of the CDP specifically acknowledges Quin's outstanding architectural heritage by identifying the village core as the ACA. The nature of the village layout ensures that the majority of the main street and village core will have the benefit of views north west towards the application site which is elevated behind existing buildings at the junction of the R469 regional road with the L-3148 local road. Views of the structure will also be prevalent from outside of the ACA given the nature of the locally elevated site and its siting at the junction of access routes into and out of the village.
- 8.3.6. I note Section 13.8 of the Architectural Heritage Guidelines 2011 provides guidance for assessing development affecting the setting of an ACA. Section 13.8.3 states-

'Large buildings, sometimes at a considerable distance, can alter views to or from the protected structure or ACA and thus affect their character. Proposals should not have an adverse effect on the special interest of the protected structure or the character of an ACA.'

I acknowledge the development is not for a building per se, however given the proposals proximity to the designated ACA, including its design, height and siting on elevated ground I am satisfied the premise of this section of the 2011 guidelines is relevant to this application.

- 8.3.7. A 21m high mast, on a locally elevated site with associated antenna etc. as proposed in this appeal would provide a considerable structure that would visually dominate the existing streetscape and buildings within the ACA. In terms of its

overall height, design, setting and material finishes I agree with the Planning Authority's position that the proposed development would inherently alter the character of the village and thereby would have a severe negative impact on the character of the village and the visual amenities of the area. The application should be refused.

8.4. Refusal Reason 3- Compliance with National Guidance

- 8.4.1. The Planning Authority's third refusal refers to objective CDP8.44 of the County Plan which seeks to facilitate the proposed developments at appropriate locations and in accordance with the 1996 Telecommunications Antennae and Support Structures Guidelines for Planning Authorities as updated by Circular PL07/12. The reason also quotes one of two 'last resorts' tests for such developments listed in the Guidelines in relation to locating such masts in proximity to a number of residential properties.
- 8.4.2. The Applicants contend that the 1996 Guidelines and Circular Letter PL07/12 were written at a time when the rate of growth within the communications business was underestimated. They argue that in many smaller towns and villages rooftops are often too low or not available but in such instances these installations are usually exempt and preferred by operators. The sites location next to the water tower is considered the only realistic location for the proposed development in terms of technological and planning requirements.
- 8.4.3. The Applicants seek to justify the proposed development by reference to existing Vodafone 3G and 4G coverage in and around Quin. They also wish to provide 5G coverage for the area. They argue the site meets their criteria for site selection and service provision, is sited close to the water tower and should be considered clustering.
- 8.4.4. I have reviewed current mobile and data coverage maps¹ for the area around Quin which shows the level of 4G coverage ranging from 'Fringe' to 'Fair' for the three main operators (who also provide for the smaller services e.g. Gomo, 48 and Clear Mobile).

¹ <https://www.gov.ie/en/publication/5634d-national-broadband-plan-map/>

- 8.4.5. I have reviewed the proximity of existing telecommunications masts in the wider area of the site² and note that the area around Quin does appear to be lacking in standalone telecommunications mast structures. This does not include for ancillary structures which are located on rooftops in the area or for example the structures identified atop of the water tower which are placed by other operators presumably under exempted development provisions.
- 8.4.6. I also note that Quin is reasonably well served by existing fibre broadband infrastructure of up to 100mps as indicated by service provision available for property in Quin on the Eir website³. However, this is not mobile and data service provision that would be reasonably required by visitors to the area.
- 8.4.7. Having considered the above, I am satisfied that there is a need for improved mobile and data services in Quin and the general wider area. The location of the development as proposed would provide improved mobile and data coverage that would benefit Quin and the wider area.
- 8.4.8. The 1996 Guidelines and Circular PL07/12 remain the appropriate ministerial guidance documents for the purpose of this assessment. Furthermore I note they form the basis of telecommunications local policy and objectives as set out in the current county development plan for Clare.
- 8.4.9. Section 4 of the 1996 Guidelines deals with Development Control and Telecommunications. Section 4.3 of the Guidelines deals with 'Visual Impact' which is detailed among the most important considerations to be taken into account in the Guidelines. In terms of visual impact the proposed development is best described as within a 'smaller settlement/village' as per the categories provided in the Guidelines. The guidelines states-

'...great care will have to be taken when dealing with fragile or sensitive landscapes with other areas designated or scheduled under planning...'

The guidelines provide a number of examples of such areas. While ACA's are not specifically stated it is noted these 'statutory' designations were introduced under the

² <https://siteviewer.comreg.ie/#site/3832/52.8555526185/-9.1955288837/1/Site%203832>

³ <https://www.eir.ie/broadband/checkyourline/>

2000 Act which was enacted after the guidelines. Accordingly I am satisfied an ACA is a designated area suitable for consideration in this context. The guidelines goes on to state-

'Proximity to listed buildings, archaeological sites and other monuments should be avoided'.

8.4.10. Appendix 4 of the CDP discusses the Quin ACA and describes the village cores '*outstanding architectural heritage*'. The ACA designation intends to-

'positively assist the conservation management of the central area which is a considerable economic asset to the village in terms of its tourist profile.'

Having visited the site and surrounding area, it is clear the proposed development will represent a significant visual intrusion on the village core and its streetscape. Given the importance placed on the Quin ACA in the local development plan and noting the specific references to designated areas under planning legislation in the 1996 guidelines I am satisfied that developments such as that proposed should be avoided in close proximity to Quins ACA.

8.4.11. Section 4.3 of the guidelines goes on to provide a 'last resort' test for free standing masts '*within or in the immediate surrounds of smaller towns or villages*'. It states that-

'If such locations become necessary, sites already developed for utilities should be considered and masts and antennas should be designed and adopted for specific locations'.

The guidelines are clear that in villages such as Quin, masts such as that proposed should be located on sites already developed for utilities. Notwithstanding the sites proximity to lands zoned 'Utilities' it is clear the proposed siting of the mast does not comply with the 'last resort' test for such structures within villages.

8.4.12. Section 4.5 of the Guidelines deals with 'Sharing Facilities and Clustering'. The Applicants contend that the proposed development can be considered to be clustered around the existing water tower. The water tower is located on lands zoned 'Utilities' and generally speaking would represent suitable lands for such a proposal within a village. However the site is not located on lands zoned 'Utilities'.

- 8.4.13. Overall, In terms of the guidelines, I am satisfied the Applicants have demonstrated the absence of other masts in close proximity to Quin to meet their service requirements and they have submitted a technical justification for the mast to provide improved mobile and data services for the area.
- 8.4.14. However, the application site is located within a village and does not meet the 'last resort' test as set out in the Guidelines. This test requires such masts to be located on lands already developed for utilities, notwithstanding its proximity to an existing site zoned for utilities. Furthermore the site is located directly abutting a sensitive planning designation i.e. an Architectural Conservation Area and I do not consider the Applicants have taken 'great care' when dealing with the sites proximity to the adjoining Quin Architectural Conservation Area i.e. an area designated under planning legislation.
- 8.4.15. Having considered the above, the proposed development should be refused.

8.5. Refusal Reason 4- Archaeology

- 8.5.1. The Planning Authority have considered the site to be located entirely within the Zone of Notification for RMP CL042-027 (settlement deserted- medieval). In the absence of an Archaeological Impact Assessment (AIA) and a visual impact assessment, the Planning Authority was unable to satisfactorily determine that the proposed development would not have a negative impact on the archaeological heritage of the area and therefore recommended refusal.
- 8.5.2. This consideration appears to have been informed by the submission of the Development Applications Unit dated 01/11/21 in which the sites location within the Zone of Notification for RMP CL042-027 was detailed and further information was recommended to include an AIA with a programme of test excavations and a visual impact assessment.
- 8.5.3. In their appeal the Applicants argue that is not uncommon to undertake development within Zones of Notification for Archaeological purposes. They also highlight the sites location next to the water tower where land disturbance is already likely to have occurred.

- 8.5.4. I have reviewed the National Monument Service Historic Environment Viewer⁴. The application site is identified c. 200m outside of the zone of notification for RMPCL042-027. I also note the site is located directly to the rear of existing buildings and on a site abutting the already developed water tower.
- 8.5.5. In the context of the already built up environment, I consider that the visual impact of the development would not be significantly detrimental to the recorded monuments and a condition requiring archaeological monitoring and appraisal of the site would satisfactorily provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard I do not considered the Planning Authority's fourth refusal reason to be warranted.

8.6. **Material Contravention**

- 8.6.1. The Planning Authority's first refusal reason considers that the proposed development materially contravenes the zoning of the site. The Applicants appear to acknowledge this and consider that permission should be granted by the Board having regard to Section 37 (2) (b) (iii) of the Planning and Development Acts.
- 8.6.2. Section 37 (2) (b) of the Acts provides circumstances where the Board may grant permission where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan. These circumstances are-

- (i) the proposed development is of strategic or national importance,*
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
- (iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government,*

⁴ <https://maps.archaeology.ie/HistoricEnvironment/>

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan

8.6.3. The Applicants have only sought consideration of the application under (iii) however it is appropriate to consider each in turn.

- (i) The proposed development will provide local mobile and data services to the wider Quin area only. The development is not of strategic or national importance.
- (ii) I am satisfied that Objective CDP19.3 Compliance with Zoning and Objective CDP8.44 Telecommunications Infrastructure do not conflict and both are clearly stated. In this regard, the application site is not an 'appropriate location' for the development based on its zoning and also its proximity to the designated ACA.
- (iii) RPO 137 as set out in the RSES deals with Mobile Infrastructure and seeks to continue the delivery of high-speed, high-capacity digital and mobile infrastructure investment in the Region. As with any planning applications proposals are considered subject to all relevant planning considerations. I do not consider a broad Regional Policy Objective that doesn't consider all planning considerations as reason alone for the Board to grant permission in this context. I also note refusing the proposed development would not significantly compromise the delivery of RPO137 in the regional context.

Site specific consideration of the development including under section 28 Ministerial Guidelines is set out in sections 8.3 and 8.4 above. The proposed development is considered contrary to two Ministerial Guidelines.

I do not consider there to be any specific policy directives under section 29 of the Act or any other statutory obligation of the local authority as regards the proposed development.

I am not aware of any other specific relevant policy of the Government, the Minister or any Minister of the Government that the Board should consider to grant permission under section 37 (2) (b) (iii).

- (iv) I am not aware of any comparable development or permissions granted in the Quin area since the making of the development plan that could be considered a precedent for considering the proposed development under section 37 (2) (b) (iv) of the Act.

8.6.4. Having considered the above I see no reason why the Board should consider granting permission under the provisions of section 37 (2) (b) of the Acts.

8.7. Impact on Bats

8.7.1. A number of observers raised concerns in relation to the Lesser Horseshoe Bat. As this is a species listed in the Habitats Directives and located within a designated Special Areas of Conservation it will be considered under section 8.8 below.

8.7.2. An observer has also highlighted concerns in relation to existing bats in close proximity to the site that roost in a buildings nearby. In this regard I note these concerns are managed under the provisions of the Wildlife Act 1976. I note the Planning Authority have not raised any concerns in this regard.

8.7.3. The development proposes a 21 m telecommunications mast and associated infrastructure. I note the site is generally an open field in agricultural uses bounding existing properties. There are no hedgerow or trees of note in this context and is unlikely to provide suitable feeding or roosting grounds for bats.

8.7.4. Notwithstanding the above granting permission for a mast would not constitute consent for a developer to disturb bats or to interfere with their breeding or resting places. The developer would still be obliged to comply with the provisions of the NPWS's licensing regime and a derogation licence may be required for any works should they disturb or interfere with Bats. In this context I do not share the concerns of the observer and see no reason why the development would impact upon bats.

8.8. Appropriate Assessment

8.8.1. Introduction

- a) A screening report for Appropriate Assessment was not submitted with this application or appeal. Therefore, this screening assessment has been carried de-novo.
- b) In the Planning Authority's Appropriate Assessment Screening Determination they identify the Poulmagordon Cave SAC. They refer to Annex 1 habitats- Caves not open to the public (8310) and Annex II Lesser Horseshoe Bat (1303). They detail that potential negative impacts are "N/A – no likely significant effects"

8.8.2. Stage 1 Screening

- a) The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on European sites. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on such European Sites.

8.8.3. The Proposed Development and Receiving Environment

- a) The original proposed development comprised the erection of a 24m high lattice telecommunications support structure with antennas, dishes and associated telecommunications equipment and 2.4m palisade security fencing. The structure is now reduced to 21m as per the first party appeal.
- b) The site is an existing agricultural field to the rear of existing buildings and next to an existing water tower c. 15m high.
- c) The site is not located within or adjoining a designated European site.

8.8.4. European Sites

- a) Given the location of the site, and the nature and scale of the proposed development, I consider the designated site as set out in Table 1 below to be within the zone of influence of the subject site.
- b) I am satisfied that other European sites proximate to the appeal site (including those identified in section 6.4 above) can be 'screened out' on the basis that

significant impacts on such European sites can be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct or indirect hydrological or other pathway from the appeal site to European Sites.

Table 1		
European Site and code	Qualifying Interests	Distance
Poulnagordon Cave (Quin) SAC (000064)	<ul style="list-style-type: none"> • 1303 Lesser Horseshoe Bat <i>Rhinolophus hipposideros</i> • 8310 Caves not open to the public 	Less than 1 km south east of the site

8.8.5. **Test of Likely Significant Effects**

- a. The project is not directly connected to or necessary to the management of any European site. The proposed development is examined in relation to any possible interaction with European sites to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.
- b. Based on the source-pathway-receptor model and having regard to the existing use on the site, the sites context in Quin, the nature of the proposed development, the scale of works proposed, the distance to identified European sites and having regard to the NIS carried out for the County Development Plan including the identified conditions underpinning European Site integrity and implications for this site, the following are considered for examination in terms of likely significant effects on European sites-
 - Potential disturbance to Lesser Horseshoe Bat a Qualifying Interest of the Poulnagordon Cave (Quin) SAC (000064) i.e. light pollution and commuting routes to foraging grounds.

8.8.6. **Potential Effects**

- a. The NPWS Conservation Objectives Series for Poulnagordon Cave (Quin) SAC (000064) details that Lesser Horseshoe Bats normally forage in

woodlands/scrub within 2.5km of their roosts and they normally follows commuting routes from the roost to its foraging grounds. They will not cross open ground. Consequently, linear features such as hedgerows, treelines and stone walls provide vital connectivity for this species within 2.5km around each roost. These bats are very sensitive to light pollution and will avoid brightly lit areas. Inappropriate lighting around roosts may cause abandonment and lighting along commuting routes may cause preferred foraging areas to be abandoned.

- b. The Conservation Objective details there should be no significant increase in artificial light intensity adjacent to named roosts or along commuting routes within 2.5km of those roosts.
- c. Map 6 of the Conservation Objective identifies the roosts, foraging range and potential foraging roosts.
- d. The application site is located less than c.1 km north west of the SAC. I note the application site is located between the SAC and potential foraging areas north of the site. However, given the preferred commuting routes which would not include through an existing built up area where significant artificial lighting exists, it is not likely that proposed development will have any significant impact upon the species.

8.8.7. *In-combination Impacts*

- a. The subject application should be considered as part of the wider development of Clare as part of the County Development Plan. The Plan was also subject to AA by the Local Authority.
- b. I do not consider there to be any other specific recent planning applications in the immediate area that could have in-combination effects with the proposed development on the identified European Site.

8.8.8. *Conclusion*

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, it has been concluded that the project individually (or in combination with other plans or projects) would not be likely to have a significant effect on the following European Sites-

- Poulmagordon Cave (Quin) SAC (000064)
- or any other European sites, in light of those sites' Conservation Objectives', and a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not therefore required.

In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

9.0 Recommendation

9.1. I recommend that permission is refused for the following reasons-

10.0 Reasons and Considerations

1. The site is located in an area zoned objective OS 'Open Space' in the Clare County Development Plan 2017-2023. The Board considers that the proposed development would materially contravene the zoning objective and would be contrary to Objective CDP 19.3 'Compliance with Zoning', as set out in this plan. The Board, pursuant to the provisions of section 37 (2)(b) of the Planning and Development Act, 2000 (as amended), is precluded from the granting of planning permission for the proposed development as none of the provisions of section 37 (2)(b) (i), (ii), (iii) or (iv) of the said Act apply in this case. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of its proximity, height and siting, would have an adverse effect on the character of the Quin Architectural Conservation Area, and would seriously detract from and injure the visual amenities of the area. The proposed development would, therefore, be contrary to Objective CDP15.5 'Architectural Conservation Areas (ACAs)' of

the Clare County Development Plan 2017-2023 and contrary to the proper planning and sustainable development of the area.

3. In terms of visual impact, proximity to a designated Architectural Conservation Area and siting within a village it is considered that the proposed development does not comply with the provisions of-

- section 4.3 of the Telecommunications Antennae and Support Structures Guidelines 1996, and
- section 13.8.3 of the Architectural Heritage Protection Guidelines for Planning Authorities 2011

The proposed development would be contrary to the provisions of the said guidelines, would have a significantly negative visual impact on the area and would have an adverse effect on the character of the ACA. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Adrian Ormsby
Planning Inspector

25th April 2022