



An  
Bord  
Pleanála

## Inspector's Report ABP-312735-22

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<b>Development</b>	Erection of a 30m high lattice telecommunications support structure together with antennae, dishes and associated telecommunications equipment all enclosed in security fencing with a proposed access track.
<b>Location</b>	Rathmullan & Ballyboe, Rathmullan, Co. Donegal.
<b>Planning Authority</b>	Donegal County Council
<b>Planning Authority Reg. Ref.</b>	21/52412
<b>Applicant(s)</b>	Vantage Towers Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First-Party vs. Refusal
<b>Appellant(s)</b>	Vantage Towers Limited
<b>Observer(s)</b>	Gracie Edwards
<b>Date of Site Inspection</b>	1 <sup>st</sup> May 2022
<b>Inspector</b>	Stephen Ward

## **1.0 Site Location and Description**

- 1.1. The appeal site is located within the western margins of the village of Rathmullan, along the eastern side of the Fanad Peninsula. The western shore of Lough Swilly (Rathmullan Beach) is approximately 600m to the east. The village is approximately 20km northeast of Letterkenny and is a 'Layer 3' settlement in the Development Plan Settlement Structure. This is the lowest layer of settlements and refers to 'Rural Towns and Open Countryside'. It is generally a low-density dispersed settlement with a high concentration of holiday homes and tourist accommodation.
- 1.2. The site has a stated area of 0.0596 hectares and is of an irregular 'L' shaped configuration. It has a narrow width of 3 metres, which extends to 7m x 8m at the terminus of the site. The longer section of the site is c. 150m long, while the shorter section is c. 40m long. The site perimeter runs alongside the boundaries of larger fields. The site levels rise significantly from the southeast to northwest, a total rise of c. 16 metres.
- 1.3. The site would be accessed via an existing agricultural entrance off the residential road serving 'Milltown Mews', which is a cul-de-sac development of 7 dormer dwellings. To the southeast of the site are other detached residential properties. The adjoining land to the north, south, and west of the site is undeveloped. In the wider area, there is a wooded area to the north, a church to the northeast, and a school to the southwest.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the construction of a telecommunications support structure and associated works and equipment. The application states that the development is required to significantly improve Vodafone's network requirements in Rathmullan, including improved mobile and wireless broadband coverage.
- 2.2. In summary, the proposed development includes the following:
  - Erection of a 30-metre-high lattice telecommunications structure and headframe

- Attachment of antennae, dishes and equipment for Vodafone and 2 other operators.
- Provision of ground level cabinets and cable management system for operators
- Provision of 2.4m high palisade fencing
- Construction of access track of 3m width and c. 180m long.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated 3<sup>rd</sup> February 2022, Donegal County Council (DCC) issued notification of the decision to refuse permission. The reasons for refusal are as follows:

1. *The subject site is located within the settlement framework of Rathmullan. It is a policy of the Council under TC-P-3 of the County Donegal Development Plan 2018-2024 (as varied) that '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 ... and ... shall not normally be favoured ... beside schools... archaeological sites and other monuments'. The aforementioned 1996 Guidelines also state that 'within towns and villages, operators should endeavour to locate in industrial estates or in industrially zoned land' ...and 'only as a last resort and if the alternatives suggested ... are either unavailable or unsuitable should free-standing masts be located in a residential area'. Having regard to the location, positioning, height and scale of the proposed telecommunications equipment, it is considered that the proposed development would, by reason of its height and location on a locally elevated and visually prominent site, and close to an existing primary school and local residential properties, together with the absence of any justification in terms of visual impact (i.e. photo-montages/computer generated image/visual impact assessments) would result in an unacceptable and overbearing visually obtrusive structure; would seriously injure the visual amenities and high*

*scenic amenity value of the area, including the residential amenities of adjoining land uses (educational and residential), and adversely impact on the historic and archaeological setting of Rathmullan. Therefore, to permit the proposed development would contravene the aforementioned 1996 Guidelines and Policy TC-P-3 of the County Donegal Development Plan 2018-2024 (as varied) and the proper planning and sustainable development of the area.*

2. *It is considered that insufficient examination of alternative sites and justification of current 'last resort' site selection in accordance with the 1996 National Guidelines has not been presented or demonstrated, therefore to permit the proposed development in this historic settlement context would be contrary to the proper planning and sustainable development of the area.*

### 3.2. Planning Authority Reports

#### **Planner's Reports**

In response to 3<sup>rd</sup> Party submissions the Planning Officer states as follows:

- In accordance with national guidance, health and safety matters should not be regulated by the planning process.
- Any construction noise nuisance would be temporary in nature.
- The Planning Authority considers that Site Notices were satisfactorily erected.
- Any lighting distractions can be appropriately dealt with by condition.
- The proposed development is not located within or adjacent to any designated or protected woodlands.
- In addition to these points, other issues will be addressed in section 9 (Assessment) of the Planner's report.

The Planning Officer's assessment can be summarised as follows:

- In principle, new and improved telecommunications infrastructure is supported by national and local policy, subject to further assessment.

- The Planning Authority has considerable concerns about the location of the proposal is an exposed and locally elevated site, so close to a primary school and in an area that has a rich historic and archaeological context.
- No reasonable rationale or justification for site selection has been presented, including the consideration of co-location elsewhere.
- The significantly elevated position of the structure exacerbates the sheer visual impact and imposing nature.
- Concerns are raised about the visual impact along the Rathmullan & Ballyboe road, and the application is not supported by any visual analysis to assist in assessment. However, it is considered that the height and width of the structure on this elevated site would result in a visually obtrusive and overbearing structure in a residential area, resulting in a foreign and incongruous structure within Rathmullan, the backdrop of which is within an area of High Scenic Amenity.
- There are concerns about the selected lattice structure over a monopole.
- No information has shown about what other sites were considered and disregarded.
- The site falls within an archaeological complex, which should be avoided in accordance with the Telecommunications Guidelines. The proposal would have an adverse impact on the historic, cultural, and archaeological character of Rathmullan.
- Considering the limited duration of construction and the infrequent traffic generated at operational stage, no significant concerns arise in relation to access, parking and traffic safety.
- No public health issues arise. These matters would be regulated by other codes.
- Having regard to the minor nature of the development and its distance/separation from any European Site, no Appropriate Assessment issues arise.
- It is recommended to refuse permission for the reasons outlined in the DCC decision.

## **Other Technical Reports**

Executive Engineer (Roads): The report refers to the Site Notice but does not raise any concerns in relation to access or traffic issues.

### **3.3. Prescribed Bodies**

Irish Aviation Authority: There is no requirement for obstacle lighting.

### **3.4. Third-Party Observations**

Seven third-party submissions were received by the planning authority. The issues raised have been outlined in section 3.2 of this report (above).

## **4.0 Planning History**

There would not appear to be any planning history relating to the site.

## **5.0 Policy & Context**

### **5.1. National & Regional Policy/Guidance**

#### **Project Ireland 2040**

- 5.1.1. The National Planning Framework (NPF) acknowledges that telecommunications networks play a crucial role in enabling social and economic activity. For rural Ireland, it states that broadband is essential enabling infrastructure that affords rural communities the same opportunities to engage with the digital economy as it does to those who live in our cities and towns. National Policy Objective 24 aims to support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who live and work in rural areas.

#### **NWRA Regional Spatial & Economic Strategy 2020-2032**

- 5.1.2. Section 6.5 of the RSES deals with 'Broadband Connectivity' and highlights the importance of improving coverage in rural areas. Regional Policy Objective (RPO) 6.36 supports the roll-out of the National Broadband Plan. Section 6.6 deals with the

'Smart Region' and RPO 6.52 aims to facilitate infrastructural needs, including immediate priorities for access to ultra-fast and rural broadband initiatives.

Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996)

- 5.1.3. These guidelines, hereafter referred to as the Telecommunications Guidelines, set out the criteria for the assessment of telecommunications structures. Section 3.2 sets out that an authority should indicate in their Development Plan an acceptance of the importance of a high-quality telecommunications service, as well as 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.
- 5.1.4. Section 4.3 outlines that the visual impact is among the more important considerations which have to be taken into account in arriving at a decision on a particular application. Whatever the general visual context, great care will have to be taken when dealing with fragile or sensitive landscapes. The sharing of installations and clustering of antennae is encouraged, as co-location would reduce the visual impact on the landscape according to Section 4.5 of the Guidelines.
- 5.1.5. Guidelines state that only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages, within 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. In urban and suburban areas, the use of tall buildings or other existing structures is always preferable to the construction of an independent antennae support structure.

Circular Letter PL07/12 – Telecommunications Antennae and Support Structures

- 5.1.6. Issued in 2012, this Circular Letter revises elements of the 1996 Guidelines. In summary, the revisions are as follows:
- Temporary permissions should only be used in exceptional circumstances where particular site / environmental conditions apply.

- Separation distances between telecommunication structures and sensitive receptors should not be incorporated into statutory plans.
- Bonds for the removal of structures should not apply.
- A register of approved structures should be maintained.
- Clarification that Planning Authorities do not have competence to assess health and safety matters as these matters are regulated by other codes.

## 5.2. County Donegal Development Plan 2018 to 2024

### Settlement Structure

- 5.2.1. The site is located within the defined Settlement Framework Boundary for Rathmullan, a Layer 3 settlement as designated in the County Development Plan. No particular zoning objectives apply within the boundary and Policy CS-P-4 states:

*It is the policy of the Council that within the boundaries of towns identified as Strategic Towns due to their 'Special Economic Function' (Layer 2B) and in rural towns identified as Layer 3, applications for development will be assessed in the light of all relevant material planning considerations including any identified land use zonings, availability of infrastructure, relevant policies of the Development Plan, other regional and national guidance/policy and relevant environmental designations.*

### Telecommunications

- 5.2.2. Section 5.3 of the Development Plan sets out policies and objectives in relation to telecommunications. The overall aim is to facilitate the development of high quality and sustainable telecommunications networks 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 Donegal. The following objectives and policies apply to the proposed development:

**TC-O-1:** To facilitate the development and delivery of a sustainable telecommunications network across the County through a range of telecommunication systems, developed with due regard to natural and built heritage and to environmental considerations.

**TC-P-1:** It is a policy of the Council to facilitate the deployment of the National Broadband Plan, the national subvention plan to deliver High Speed Broadband to



every rural household outside the commercially served areas as defined on the National Broadband Plan Map and similar projects, subject to any constraints arising from international/national environmental designations and the proper planning and sustainable development of the area.

**TC-P-3:** 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, beside schools, protected structures or archaeological sites and other monuments. Within towns and villages operators shall endeavour to locate in industrial estates/areas where possible.

**TC-P-7:** It is a policy of the Council that access roads associated with telecommunications development must be designed and landscaped to avoid visual and environmental disruption of the landscape, comply with Article 6 of the Habitats Directive and have regard to the relevant conservation objectives, qualifying interests and threats to the integrity of any Natura 2000 site.

### Landscape

- 5.2.3. The county has been categorised into three layers of landscape value (Especially High Scenic Amenity', 'High Scenic Amenity' and 'Moderate Scenic Amenity'), which are illustrated on Map 7.1.1 of the Plan. The subject site is within an area classified as 'High Scenic Amenity', which are described as landscapes of significant aesthetic, cultural, heritage and environmental quality that are unique to their locality and are a fundamental element of the landscape and identity of County Donegal. These areas have the capacity to absorb sensitively located development of scale, design and use that will enable assimilation into the receiving landscape and which does not detract from the quality of the landscape, subject to compliance with all other objectives and policies of the plan.

- 5.2.4. Policy **NH-P-7** seeks to facilitate development in areas of ‘High Scenic Amenity’ and ‘Moderate Scenic Amenity’ of a nature, location and scale that allows the development to integrate within and reflect the character and amenity designation of the landscape
- 5.2.5. Policy **NH-P-13** states that it is a policy of the Council to protect, conserve and manage landscapes having regard to the nature of the proposed development and the degree to which it can be accommodated into the receiving landscape. In this regard the proposal must be considered in the context of the landscape classifications, and views and prospects contained within this Plan and as illustrated on Map 7.1.1: ‘Scenic Amenity’.

### 5.3. **Natural Heritage Designations**

The nearest Natura 2000 sites are the Lough Swilly SPA (Site Code 004075) and the Lough Swilly SAC (Site Code 002287), both located c. 250m to the south of the appeal site.

### 5.4. **Environmental Impact Assessment**

The development is not of a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended). Accordingly, I am satisfied that EIA or EIA screening is not required in this case.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The decision of DCC to refuse permission has been appealed by the applicant. The appeal states that the grounds are provided for under Section 37 (2)(b)(iii) of the Planning and Development Act 2000 (as amended), i.e. that permission should be granted having regard to the RSES, Guidelines under section 28, policy directives under section 29, the statutory obligations of the local authority, and the relevant policy of the Government, the Minister, or any Minister. The grounds of appeal can be summarised under the following headings:

## Site Selection & Justification

- Although the primary client for this site is Vodafone, it is anticipated that other operators will also be accommodated in the short term.
- A monopole or shared headframe design is not considered ideal and the proposed lattice structure of 30m height has been designed to address the network demands, equipment requirements, and coverage requirements of Vodafone and future operators.
- Rathmullan has weak coverage for all networks, particularly for 4G services. Comreg coverage analysis for the three main operators (Vodafone, Eir, Three) demonstrates that Rathmullan is disadvantaged.
- The topography of Rathmullan causes difficulties in achieving even coverage. It is surrounded by elevated ground to the west, and it is necessary to secure a site at the 26-metre contour and at close proximity to the village in order to achieve coverage over the target area.
- The achievement of coverage across the estuary is not possible due to distance and signal interruption due to the water body.
- Due to the topography, the pattern of development in the village, landowner agreement, and the technological nature of coverage, particularly for 4G and future generations, the proposed site is the only option and can be described as a last resort.
- A line of sight survey was undertaken to determine how the site can be linked into the existing network. A number of potential links were identified at Newtowncunningham and Scalp Mountain, and sites at Bunrana are considered likely. A large number of sites were unable to achieve line of sight due to signal blockage from mountains and hills.

## Policy

- The appeal outlines various provisions of the Development Plan which support telecommunications developments.
- In accordance with the Telecommunications Guidelines the proposal has been designed to address the site context and coverage requirements.

- There are no other structures within the required area. The applicant is an independent provider of infrastructure and has a facility sharing policy. The proposal has been designed to facilitate sharing with other operators.
- The location is away from main core and tourist areas of the village and tourism will benefit greatly from the improved coverage.
- The lands around the structure can be developed for residential purposes and the proposal will not prevent the future growth of the town.
- The proposal is consistent with national policy to support the improvement of telecommunications infrastructure in rural areas.

### Visual and Heritage Impact

- It is acknowledged that the impact will be greater for nearby properties and there will be some visual impact along parts of the road network. However, it is submitted that the nature of the topography, surrounding road network, and screening from vegetation and man-made structures will reduce the impact, with views of the structure being intermittent.
- To reduce the impact further, the structure and associated works can use alternative colours if the Board requires, and additional landscaping can be added.
- It is regrettable that a visual impact study was not provided with the application and time constraints did not allow its inclusion with the appeal. However, the proposed development will be seen, particularly from nearby, and this is a consequence of providing important infrastructure.
- The location does not impact on any designated sites/areas; there are no listed buildings, archaeological sites, or other monuments in the vicinity; and it does not interfere with any important views or terminate a view.
- The identified historic and archaeological aspects of the village (Macmanish fort and Old Abbey Graveyard) will not be impacted by the development.

### Access and Traffic

- Access will be via an existing farm gate and the access track will follow the existing hedge line. Maintenance of the structure will be minimal, with only 6 to 8 visits per annum.

## **6.2. Observations**

One observation has been received from Gracie Edwards of Ballyboe, Rathmullan. The issues raised can be summarised under the following headings:

### Site Selection & Justification

- Having spoken to landowners, there are more suitable sites in the area and these landowners have not been approached about such a proposal.
- Any site within 1km of the village would work perfectly.
- The elevation of the site determines the size of the tower and sites of low and high elevation are equally suitable.
- The applicant has provided no evidence of attempts to source other sites and the subject site has been chosen as the easier and cheaper option.
- The mast is not necessary as National Broadband Ireland is already working to bring high-speed broadband to the area.

### Visual Impact

- No visual impact study has been provided, which is a deliberate omission of the impact on the scenery of this beautiful seaside village (categorised as High Scenic Amenity).
- The proposed tower is the equivalent of 6 double decker buses and the visual impact will not be mitigated by screening.
- The applicant's contention that protected listed aspects is contested by the local community and the planning authority.
- The village has remained unspoilt, and this tower will be a blight on the landscape for many decades to come.

- The village is along the Wild Atlantic Way and tourism and amenities such as the beach will be adversely affected by the negative visual landscape.
- The future inclusion of other operators will add further to the visual impact.
- The mission of An Bord Pleanála is to respect the principles of sustainable development, including protection of the environment. The Development Plan aims to protect areas of high scenic amenity and the Board should uphold their mission to protect the environment of the village.
- Adjoining landowners have no desire to develop the land for housing, which refutes the applicant's claim that the bulk of the tower will eventually be camouflaged by housing development.
- Some very basic scale images of the impact of the mast on the village are included.

### **6.3. Planning Authority Response**

The Planning Authority response to the grounds of appeal highlights that a visual impact study is critical to inform the appellant's argument. However, the planning authority remains unconvinced that the proposed structure would not result in an obtrusive and incongruous structure which would detract from the visual, residential, and historic/archaeological setting of the area. Otherwise, the planning authority is satisfied to rely on the contents of the Planner's Report and Recommendation, and requests that the Board upholds the decision to refuse permission.

## **7.0. Assessment**

### **7.1. Introduction**

7.1.1. Having regard to the documentation submitted in connection with the application and the appeal, including the observation received, and having inspected the site, I consider that the main issues for assessment are as follows:

- The principle of the development
- Visual Amenity & Built Heritage

- Residential Amenity
- Traffic

## 7.2. The principle of the development

- 7.2.1. The proposal is for a new multi-user telecommunications structure that would host antennae and dishes to improve the network coverage and capacity at this location. This is clearly supported by national, regional and local planning policies which seek to improve telecommunications infrastructure in rural areas in the interests of improved connectivity and economic development.

### Need and Justification

- 7.2.2. The appeal addresses the need and justification for the proposed development, including details of the network and coverage constraints due to the topography and geography of the area. It concludes that the proposed location is the only option to address these challenges and that it can be classified as a 'last resort'.
- 7.2.3. I have reviewed ComReg's online Outside Coverage Map for the surrounding area. For the main built-up area of Rathmullan, I note that the rating for Vodafone 4G coverage is generally only 'fringe'. Regarding the other main operators, I also note that the rating for 'Eir' and 'Three' is generally classified as 'fringe'. In addition to the main client (Vodafone), the proposal would enable other operators to potentially improve their coverage and capacity at this location.
- 7.2.4. Having regard to the existing network deficiencies and the increasing demands for mobile and internet data services, I am satisfied that a justification has been established for improved services in the area. According to the National Broadband Ireland website, Rathmullan is not included in the National Broadband rollout. The area is therefore dependent on improvements by commercial providers.

### Mast-Sharing and Alternatives

- 7.2.5. I note that the Development Plan and the Telecommunications Guidelines encourage the co-location of antennae on existing support structures and masts. They acknowledge that sites will be chosen in the interests of good quality coverage taking into account topography, population, and other criteria, and accept that in some instances may not be technically possible to share facilities. I have reviewed

the ComReg Site Viewer, which shows the location of existing masts in the area. I note that there are no registered masts within an approximate radius of 5km and I would accept that those nearest masts (outside 5km) are further separated by high ground and Lough Swilly. On this basis, I would accept that the applicant's contentions that there are no suitable existing masts within suitable proximity to the target area.

- 7.2.6. In addition to existing structures, the Telecommunications Guidelines recommend existing utility sites for smaller towns and villages, subject to suitable design at a minimum height. The applicant has not completed a survey of existing utility sites for the area. However, I am aware that 'Eircom Limited' were recently refused permission (June 2021) by DCC for an 18m high monopole structure at the existing Eir exchange site on Pound Street, Rathmullan (P.A. Reg. Ref. 21/50738 refers). Otherwise, I am not aware of suitable utility sites in the area.
- 7.2.7. Having regard to the above, I am satisfied that there would not appear to be suitable existing structures or utility sites within proximity of the target area. Accordingly, I consider that the applicant's motivation for the construction of a new mast is reasonable and that it provides for co-location of operators, thus reducing the need for separate structures in the future. However, the suitability of the selected site requires further examination.

#### Location

- 7.2.8. I note that the Development Plan outlines policy (TC-P-3) for the location of telecommunication antennae. In this regard, I consider that the appeal site is not within an Area of Especially High Scenic Amenity. I note that there is a school building located c. 85 metres to the southwest, and that the external area of the school site is closer again. However, given that there would still be at least 50 metres separation, I do not consider that the appeal site is 'beside' the school as outlined in TC-P-3. Similarly, according to DCC & National Monuments Service GIS mapping, the site is not beside any Protected Structure, archaeological site or other monument. And while TC-P-3 encourages proposals within towns and villages to locate in industrial estates/areas where possible, I note that there are no such industrial areas in Rathmullan to facilitate this approach.



7.2.9. The Telecommunications Guidelines states that only as a last resort should masts be located within or in the immediate surrounds of smaller towns or villages, or in a residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered. Rathmullan is a quite dispersed and fragmented settlement, but I note that the site is within the Settlement Framework Boundary as per the Development Plan and is, therefore, within the immediate surrounds of the village. However, given the separation distances involved and the lack of adjoining development, I do not consider that the site is within a residential area or beside a school.

### Conclusion

7.2.10. Having regard to the above, I consider that the proposed development would be consistent with national, regional and local planning policy to support telecommunications infrastructure in this rural area. I have considered the applicant's justification for the proposed development, and I am satisfied that there are no reasonable opportunities to share or co-locate the proposed development with other support structures. In the absence of other suitable existing sites, such as established utility sites or industrial areas, I consider that the principle of a new site in Rathmullan is reasonable. However, the applicant has not submitted detailed information regarding the consideration of other 'greenfield' sites in the area and largely relies on the appeal site as the 'only option' and a 'last resort'. Serious concerns have been raised about the suitability of the selected site and the visual impact of the development, and this will require further assessment.

## **7.3. Visual Amenity & Built Heritage**

7.3.1. It has been acknowledged that the appeal site is not within an Area of Especially High Scenic Amenity and is not beside any Protected Structure, archaeological site or other monument. However, the site is within an area of 'High Scenic Amenity' and the Development Plan confirms that Rathmullan has been designated at national level as an 'Historic Town' for general protection. I would also accept that Rathmullan performs an important tourism function due to its attractive landscape and heritage.

- 7.3.2. To the northeast of the site is St Joseph's Church and the adjoining parochial house. The church is included on the National Inventory of Architectural Heritage (NIAH) and is given a rating of 'regional' importance. The NIAH appraisal states that this attractive church occupies a prominent position on a hillside to the north of Rathmullan and is an integral element of the built heritage of the local area. Within the grounds of the church and parochial house, there is also two features included on the Site and Monuments Record, namely a Stone Head (DG037-007001) and a Cross-inscribed pillar (DG037-023). There are other important heritage features in the village, many of which are concentrated along the coastline and are important tourism assets. These include the old Abbey and Graveyard (Protected Structure), the Battery (NIAH), as well as Rathmullan House (NIAH) and associated grounds/structures.
- 7.3.3. Where structures are proposed within smaller villages, the Telecommunications Guidelines advise that masts and antennae should be designed and adapted for the specific location, should be kept to a minimum height consistent with effective operation, and should be monopole in design. In this case the subject site is elevated and exposed, and serious concerns have been raised about visual impact. The Guidelines acknowledge that masts will remain quite noticeable in spite of the best precautions, and it is advised to consider whether the structure would terminate views and whether viewers would be facing the mast for the most time or whether visibility may be intermittent or incidental. Local factors should also be considered such as trees or buildings, topography and scale in the wider landscape, and the multiplicity of objects in the wider panorama.
- 7.3.4. It is accepted by all parties that the absence of a visual impact study is regrettable. I consider that the preparation of such a study is an almost universally established practice and, in particular, it would be expected in this case given the elevated and exposed nature of the site. Notwithstanding its absence, I have carried out a site inspection and assessed the potential impact from relevant surrounding vantage points.
- 7.3.5. The impacts in close proximity to the site are quite clear and easy to assess given the open and visible nature of the site. The Ballyboe Road to the west of the appeal site approaches Rathmullan from the north at an elevated position above the appeal site. There are panoramic views of Rathmullan, Lough Swilly, and the Inishowen

peninsula from this approach, and the appeal site is generally located along the ridge line which separates the foreground from the attractive background views. In that context, I am satisfied that the proposed structure would be almost entirely visible from this position, that it would form a significant and obtrusive feature which terminates a view, and that it would seriously detract from the visual amenities of the area.

- 7.3.6. To the south and east of the appeal site, the village includes several narrow, winding streets, within which visibility is largely contained. However, there are a number of important routes and views which interact with the appeal site. On the eastern approach to the site along Chapel Road, this hillside appeal site is elevated and exposed. As recognised in the NIAH, St Joseph's Church and the parochial house currently occupy prominent positions in this landscape and form an integral part of the built heritage of the area. In this view, the appeal site would again be located along the skyline, resulting in complete visibility and the creation of an obtrusive feature which would detract from the amenities of the area and the setting of its built heritage. A similar impact would apply to the view from the southeast along Pier Road, which is a busy and prominent link route between Chapel Road and the attractive pier/beachfront area.
- 7.3.7. The visual impact is obviously more difficult to assess from greater distances and this is where a visual impact study would be of most value. It would be important to establish that any such proposal would not form an overbearing or obtrusive backdrop feature in the village, particularly when viewed from the attractive coastal setting to the south and east. However, having inspected the site and the surrounding area, I consider that the proposed structure would form an obtrusive and prominent feature above the village when viewed from the pier/beachfront area, and from important heritage features such as the Battery and the Abbey.
- 7.3.8. I acknowledge the inherent visibility of telecommunication structures in general and the need to strike an appropriate balance between visual impact and the need for infrastructural improvements. However, I do not consider that the applicant has presented a convincing case that this is the only 'greenfield' option available. No details have been submitted regarding attempts to secure other sites. And even within the subject landholding itself, I would consider that there are more suitable options, such as the northern corner of the holding where the significant mature trees

would provide improved screening and backdrop. I acknowledge that this would be closer to the church grounds and further built heritage assessment would be required. In addition to site location, I am also not satisfied that the height and design of the structure is appropriate. The Telecommunications Guidelines state that such cases should be of minimum height and a monopole design. At this elevated position, I do not consider that the proposal for a lattice type structure of 30m height has been designed and adapted for this specific location. And while the appeal focuses on the need to achieve a level above the 26m OD contour (i.e. at ground level), it does not clarify the coverage range for the entire height of the structure (i.e. up to c. 56m OD).

- 7.3.9. In conclusion, I accept the need for improved coverage in the area and the apparent absence of readily available solutions on existing structures/sites. However, I do not accept that the proposed location and design is the only available solution and I consider that the proposed development would result in unacceptable visual impacts on the visual amenity and built heritage value of the area. And while a detailed assessment of distant views has not been possible due to the absence of a visual impact assessment, I am satisfied that the closer views alone clearly establish an unacceptable visual impact.

#### **7.4. Residential Amenity**

- 7.4.1. Notwithstanding the visual amenity concerns in the wider context, I note that the proposed structure would be located more than 100m from the nearest surrounding dwellings. And while the proposed development would certainly form a significant visual presence when viewed from within some dwellings, I would highlight that there is no inherent right to the protection of a private view. Therefore, despite the significant scale of the structure, I consider that it would be sufficiently distanced from dwellings to ensure that there would be no unacceptable overbearing impacts on residential amenity. Otherwise, I consider that any construction impacts would be of limited duration and would not result in any significant nuisance or disturbance to residential amenity.

## **7.5. Traffic**

- 7.5.1. It is proposed to access the site via an existing agricultural access off the Milltown Mews residential estate. This is a cul-de-sac road serving nine other residential properties and the agricultural access, so it has limited traffic volumes and speed. As previously outlined, the construction stage would be of limited duration, and I am satisfied that appropriate measures could be agreed through a construction traffic management plan to ensure that traffic safety and convenience is not significantly affected. Furthermore, I would accept that traffic at the operational stage would be limited to maintenance requirements only, which would not be significant. Therefore, having regard to the existing road conditions and the limited extent of traffic associated with the proposed development, I would have no objection on grounds of traffic safety or convenience.

## **8.0 Appropriate Assessment**

- 8.1. The nearest Natura 2000 sites are the Lough Swilly SPA (Site Code 004075) and the Lough Swilly SAC (Site Code 002287), both located c. 250m to the south of the appeal site. The appeal site is mainly separated from the Natura 2000 sites by undeveloped agricultural lands, roads and the developed village.
- 8.2. In terms of potential impacts, I consider that the construction stage has the potential to result in the release of sediment and other pollutants to watercourses/groundwater that may be hydrologically linked with the Natura 2000 network. At operational stage, any potential for effects is limited to any impact on the quantity and quality of surface water to the surrounding drainage network and the water quality of the Natura 2000 sites. However, there are no surface water features on or immediately adjoining the site that would provide a pathway between the development and the Natura 2000 sites. Therefore, having regard to the existing developed nature of the surrounding area, the distance of the appeal site from any potential hydrological links, the limited extent of the proposed works, and the significant assimilative capacity of Lough Swilly, I do not consider that there is any likelihood of significant effects in this case.
- 8.3. Having regard to the above preliminary examination, it is concluded that no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in

combination with other plans or projects on a European site. No mitigation measures have been relied upon in reaching this conclusion.

## **9.0 Recommendation**

I recommend that permission should be refused for the reasons and considerations hereunder.

## **10.0 Reasons and Considerations**

Having regard to:

(a) the guidelines for Planning Authorities relating to 'Telecommunications Antennae and Support Structures' which were issued by the Department of the Environment and Local Government in July, 1996, and updated by Circular Letter PL 07/12 in October, 2012, and

(b) the height, scale and elevated location of the proposed development in an area of High Scenic Amenity as per the County Donegal Development Plan 2018 to 2024, which would overlook Rathmullan and its associated heritage and landscape assets,

it is considered that the proposed development would be visually obtrusive and would seriously injure the amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Stephen Ward  
Senior Planning Inspector

2<sup>nd</sup> May 2022