



An
Bord
Pleanála

Inspector's Report

ABP-313295-22

Development	27m high telecommunications lattice structure, antennas, dishes and associated telecommunications equipment, enclosed by security fencing
Location	Cathair Ghabhann, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	2240
Applicant	Vantage Towers Ltd.
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party v Condition, & Third Party
Appellant(s)	Vantage Towers Ltd, (First Party) Patrick Horan (Third Party)
Observer(s)	None
Date of Site Inspection	6 th September 2022

Inspector

Ian Campbell

1.0 Site Location and Description

1.1. The appeal site is located in the townland of Cathair Ghabhann, a rural area, c. 1 km north-west of Claregalway (Baile Chláir), Co. Galway.

1.2. The appeal site is relatively flat, has a stated area of 0.0135 ha, and comprises part of a field which is under grass and used for the grazing of animals. The appeal site is located within the landholding of a farm complex and is accessed from a private road which connects to River Oakes, a housing estate to the north of Claregalway.

1.3. The western boundary of the appeal site comprises mature trees and hedgerow. There is paddock and a cluster of farm buildings to the south of the appeal site. Claregalway Waste Water Treatment Plant is located to the north-west of the appeal site. 110 Kv ESB transmission lines traverse lands in the vicinity of the appeal site. The River Clare is located c. 100 metres north of the appeal site.

2.0 Proposed Development

2.1. The proposed development comprises;

- The construction/erection of a 27 metre high telecommunication structure (lattice type tower). The proposal also includes;
 - Antennas, dishes, associated equipment;
 - Ground cabinets;
 - 2.4 metre high palisade fencing enclosing the telecommunication structure;
 - An outer compound enclosed by stockproof fencing.

2.2. The planning application is accompanied by a Technical Justification report. This report notes;

- The proposed installation is required to address substandard Vodafone coverage in Claregalway, and is essential to improve coverage for customers in Claregalway, and also along the N83 and N17.
- ComReg coverage mapping for the area proximate to the appeal site indicates weak 4G outdoor coverage for Vodafone, and many customers suffer indoor coverage blackspots.

- There are three installations in the area, specifically Claregalway Hotel, Cregboy and Rooaunmore, Vodafone operate from each of these locations. Vodafone have been requested to vacate Claregalway Hotel. The loss of this site will result in an immediate coverage blackspot in some areas of Claregalway. There is no other existing available infrastructure capable of accommodating Vodafone's equipment requirements and consequently new telecommunications infrastructure is required. Rooftop locations within Claregalway are not suitable.
- Failure to develop the proposal will have adverse impacts on the local area for Vodafone, and potentially other operators who wish to share the infrastructure in the future.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to GRANT Permission on the 16th March 2022 subject to 10 no. conditions.

C7 – required that the structure facilitate co-location with other operators.

C10 - required the payment of a development contribution.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer includes the following comments;

- The site is located within an indicative fluvial flood risk area, however given the nature of the proposed development no further assessment is required.
- The proposal will not adversely affect the visual amenity of the area.

3.2.2. Other Technical Reports

None received.

3.3. Prescribed Bodies

An Taisce – a report should be provided by the applicant to inform the Planning Authority as to whether an Appropriate Assessment Screening should be undertaken; alternative locations have not been considered; the proximity of the site to River Oakes housing estate renders the site unsuitable for the proposal; and, the proposal is visible from Claregalway Castle and Abbey.

3.4. Third Party Observations

In addition to the observation from An Taisce, 3 no. observations were received by the Planning Authority. The following is a summary of the main issues raised in the third-party observations:

- The proximity of the site to River Oakes housing estate renders the site unsuitable for the proposed development.
- There is already a telecoms mast to the north of the village.
- The height of the proposal would exceed anything in the locality, negatively impacting the skyline.
- The proposal would have a negative financial impact on Folio GY9500N.
- Health concerns arising from the proposed development.
- The development would interfere with the possibility of using the area for a riverwalk/cycleway in the future.
- Environmental Impact Assessment required.
- Potential impact on flora and fauna in the area. Bats have been recorded on the site. Whooper Swans graze along the riverbank and salmon are present in the river.
- The proposal would obscure the view of the Claregalway Franciscan Friary and Castle.

4.0 Planning History

None.

5.0 Policy Context

5.1. National Policy

5.1.1 National Planning Framework 'Project Ireland 2040':

National Policy Objective 24 - support and facilitate delivery of the National Broadband Plan.

5.1.2 Regional, Spatial and Economic Strategy for the Northern and Western Regional Assembly (RSES)

The weakness/absence of high-quality telecommunications infrastructure is identified as being an important issue for the region (see page 232 RSES).

5.1.3 National Broadband Plan 2020:

The National Broadband Plan (NBP) is the Government's initiative to improve digital connectivity by delivering high speed broadband services to all premises in Ireland, through investment by commercial enterprises coupled with intervention by the State in those parts of the country where private companies have no plans to invest.

5.1.4 Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996 (Department of the Environment and Local Government):

The Guidelines provide relevant technical information in relation to installations and offer guidance on planning issues so that environmental impact is minimised and a consistent approach is adopted by Planning Authorities. Visual impact is noted as among the most important considerations in assessing applications for telecommunications structures but the Guidelines also note that generally, applicants have limited locational flexibility, given the constraints arising from radio planning parameters. The Guidelines place an emphasis on the principle of co-location.

Section 4.3 also notes that some masts will remain quite noticeable in spite of the best precautions and that the following considerations may need to be taken into account,

specifically, whether a mast terminates a view; whether views of the mast are intermittent and incidental, and the presence of intermediate objects in the wider panorama (buildings, trees etc).

5.1.5 Circular Letter PL 03/2018

Circular Letter PL 03/2018, dated 3rd July 2018 provides a revision to Chapter 2 of the Development Contribution, Guidelines for Planning Authorities, 2013, and specifically states that the waiver provided in the Development Contribution, Guidelines for Planning Authorities, 2013 should apply not only to the provision of broadband services but also to mobile services.

5.2 Development Plan

5.2.1. The proposed development was considered by the Planning Authority under the Galway County Development Plan 2015-2021 however the Galway County Development Plan 2022-2028 came into effect on the 20th June 2022 and is now the relevant development plan.

5.2.2. The provisions of the Galway County Development Plan 2022 - 2028 relevant to this assessment are as follows:

- DM Standard 42: Telecommunications Masts

5.2.3. The appeal site is located within the 'Central Galway Complex Landscape' (see Map 1) for the purpose of landscape type, and is described as having a low sensitivity.

5.2.4. The appeal site is located within a Gaeltacht area, the Galway County Transportation and Planning Study Area (GCTPS) and is included in the Metropolitan Area Strategic Plan (MASP) area.

5.2.5. There is a Franciscan Friary, c. 600 metres south-east of the appeal site. Claregalway Castle is situated c. 800 metres south-east of the appeal site. Both sites comprise a number of National Monuments and Protected Structures.

5.3. Natural Heritage Designations

- Lough Corrib SAC (Site Code 000297) - c. 100 metres north.

5.4. EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended) and therefore is not subject to EIA requirements.

6.0 The Appeal

6.1. Grounds of Appeal

A first party and a third party appeal have been submitted in respect of the Planning Authorities Notification of Decision to Grant Permission.

The **first party** appeal is against Condition No. 10 of the Planning Authorities Notification of Decision to Grant Permission. Condition No. 10 requiring the payment of a financial contribution. The grounds of the first party appeal can be summarised as follows;

- The condition seeking a financial contribution was incorrectly applied by Galway County Council. Part 4 of the adopted Galway County Council Development Contribution Scheme states ‘no development contribution levies shall be payable for development (antennae and masts) associated with the roll out of the National Broadband Plan across the Country’.
- The Galway County Council Development Contribution Scheme has not been applied to other similar permissions.
- Circular Letter PL/03/2018, which applies waivers of development contributions for mast and antennae for mobile phone and broadband infrastructure, should have been applied.
- There is an inconsistency between Condition No. 7, which requires that the mast be made available for co-locating other operator’s antennae, and the Development Contribution Scheme, Part 2, which requires the additional payment of development contributions for additional co-location.

A **third party** appeal has also been submitted against the Planning Authorities Notification of Decision to Grant Permission. The grounds of the third party appeal can be summarised as follows;

- Concerns regarding the impact of the proposed development on the amenity of a site, indicated c. 300 metres south of the appeal site, where it is proposed to construct a dwelling. Concerns include devaluation of property, the appearance of the proposed structure and also the potential for health impacts, perceived or otherwise.
- Permission to access the appeal site has only been given by the landowner from the point of entry onto the existing landowner's land, and there is no evidence to indicate that the site can be accessed from a public road. The consent of other landowners should be sought where it relates to access over other lands, and for the installation of services.
- The appeal site is subject to flooding and as such is unsuitable for commercial development.
- Ambiguity in relation to the discounting of a site 2.4 km from the appeal site. Proof is required as to why co-location is not possible.
- Due to the open nature of the area the proposed structure could interfere with the architectural heritage of the area, specifically Claregalway Abbey and Castle.
- An Appropriate Assessment should be carried out. Potential impact of the proposed development on Whooper Swans needs to be examined.

6.2. Applicant Response

The applicant has submitted a response to the third party appeal. Issues raised include;

- The third party appellant is not the adjacent landowner. The third party appellant's land is c. 365 metres from the appeal site and there is a 110Kv ESB line between the appeal site and the third party appellant's lands.
- Permission on the third party appellant's land for a house expired 12 years ago.
- There is a shed and show jumping area between the appeal site and third party appellant's lands which will screen the lower part of the proposed structure.

- There is no evidence that telecoms structures devalue property, the opposite may be true. The provision of broadband services would likely off-set any loss in the value of property associated with being located in proximity to one.
- There is no requirement for a specific separation distance between houses and telecom structures. Telecom structures are required to be located in towns and villages in order to provide coverage.
- ComReg is the licencing authority in relation to the use of radio frequency and non-ionising radiation. Health impacts are not a planning consideration in the assessment of telecoms infrastructure. The proposal will be compliance with ComReg requirements and health and safety legislation.
- The freeholder of the appeal site holds a right of way to the appeal site. Vantage Towers Ltd. holds a leasehold interest with the freeholder of the appeal site. The practice of placing site notices beyond the minimum requirement is to ensure that the public is properly informed of any proposed development.
- The appeal site is outside a flood zone. The proposal is operated remotely and as such is suitable in terms of flooding.
- The structure to the north-west of the appeal site referred to by the third party appellant would not provide the required coverage. Technical justification for the proposed site is provided as part of the planning application. The required services and coverage cannot be achieved from existing structures.
- The proposal will not adversely affect the amenity of the area, including National Monuments.
- The river is located c. 120 metres north of the appeal site, a sufficient distance to enable swans to gain sufficient height to fly. The structure will also be visible to swans.
- A lattice tower design is required to accommodate Remote Radion Units, which are heavy.

6.3. **Planning Authority Response**

The Planning Authority have submitted a response in relation to the first party appeal. The Planning Authority state that no development contribution should be charged in respect of the proposed development, in accordance with Circular PL03/2018, and recommend that the condition be removed.

6.4. **Observations**

None received.

7.0 **Assessment**

7.1. I consider the main issues in the assessment of this appeal are as follows:

- Technical Justification/Appropriateness of Location.
- Impact on Visual Amenity.
- Impact on Residential Amenity.
- Flooding.
- Impact on Built Heritage.
- Other Issues.
- Development Contribution (subject of first party appeal).
- Appropriate Assessment.

7.2. **Technical Justification/Appropriateness of Location**

7.2.1. The first party states that the proposed development is required at this location in order to address specific service/coverage deficiencies in Claregalway and the surrounding area. I have verified the existing level of mobile coverage for this area using ComReg's coverage maps and note that Claregalway is identified as having 'fair coverage' for Vodafone's 4G services. According to ComReg's website, in areas with fair coverage, 'fast and reliable data speeds may be attained, but marginal data with drop-outs is possible at weaker signal levels'. I also note that Vodafone have no 5G coverage in

Claregalway. In addition, the first party states that Vodafone are required to vacate the Claregalway Hotel, where they currently have a telecoms installation, and the proposed development is intended as a replacement of this installation. The first party note that the loss of this site, without a replacement installation, would result in an immediate coverage blackspot in some areas of Claregalway.

7.2.2. In terms of the consideration of alternative sites where the first party could co-locate on an existing installation, details of 3 no. existing telecommunication installations in the wider area are referred to, including the Claregalway Hotel, with the first party currently operating from each of these sites. The first party contend that there are no existing available infrastructure capable of accommodating Vodafone's equipment requirements, and that consequently new telecommunications infrastructure is required. Having regard to the forgoing, I consider that the justification for the proposed structure is acceptable.

7.2.3. Regarding the appropriateness of the appeal site for the proposed development, I note that the appeal site is relatively remote from residential property, with the closest dwelling being located c. 200 metres from the appeal site. I also note that the surrounding land uses comprising agriculture. On this basis I consider the appeal site to be appropriate for the proposed development of a telecommunication structure.

7.2.4. Based on the information submitted, I consider that there is a technical justification for the proposal at this location. I am also satisfied that the appeal site is appropriate for such a development and that the proposed development accords with the provisions of the Galway County Development Plan 2022 – 2028, and the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities in relation to the location of installations.

7.3. Impact on Visual Amenity

7.3.1. The appeal site is located within the 'Central Galway Complex Landscape' for the purpose of landscape type. This landscape type has a low sensitivity. I note that the appeal site is not identified as being affected by any designated routes or views and as such I consider the landscape sensitivity to be low to such development.

7.3.2. Regarding the design of the structure, the first party contends that a lattice structure can accommodate more equipment, compared to a monopole of similar height, therefore avoiding the need for other antennae in the area and that the proposed compound is also capable of accommodating Vodafone and also other operators in the future. The first party states that it has a policy of allowing facility sharing. Noting the location of the appeal site, and its remoteness from the centre of Claregalway, I consider that on balance a lattice design is acceptable in this instance. Should the Board be minded to grant permission for the proposed development I recommend that a planning condition is attached requiring the applicant to facilitate other operators to co-locate onto the structure.

7.3.3. I note that 110Kv ESB transmission lines traverse the area in the vicinity of the appeal site and as such I do not consider that the proposed structure would be an incongruous feature within the immediate landscape. Whilst farm buildings to the south of the appeal site will afford a degree of screening for the structure when viewed from the residential areas the south-east of the appeal site, I note that the proposal will be intermittently visible in the surrounding landscape from a number of locations. However the proposed structure does not terminate any view and is located a significant distance from sensitive receptors and as such I am of the view that the overall visual impact of the proposal would be satisfactory in the context of the visual amenities of the area.

7.4. Impact on Residential Amenity

7.4.1. The third party appellant raises concerns in relation to the impact of the proposal on the residential amenity of properties in the vicinity of the appeal site. I note that the appeal site is located within a rural area and that the predominant surrounding land use is agriculture. Circular PL07/12 recommended that development plans should avoid the inclusion of minimum separation distances between telecommunications structures and residences. I note the separation distances between the proposed structure and the closest residential property to the north of the appeal site, which is in excess of 200 metres, the River Oakes housing estate which is located c. 600 metres from the appeal site, and also to the site referred to by the third party which

may potentially accommodate a dwelling for the third party in the future, located in excess of 300 metres south of the appeal site. Additionally, I note that concerns were raised in a third party observation to the Planning Authority in relation to the negative financial impact of the proposal on Folio GY9500N. I have consulted the Land Direct website and I note that this parcel of land is located c. 4 km from the appeal site. I consider these separation distances to be adequate to ensure that there would be no significant overbearing or visual intrusion arising from the proposed development and as such I am satisfied that the proposed development would not result in significant negative impacts on the amenity of residential property in the vicinity of the appeal site.

- 7.4.2. The third party appellant contends that the proposed development could result in the devaluation of property. Having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

7.5. **Flooding**

- 7.5.1. The third party appellant raises concerns in relation to flood risk and the unsuitability of the appeal site for the proposed development. Based on OPW Preliminary Flood Risk Assessment (PFRA) mapping the appeal site is located within an area subject to fluvial flooding (i.e. 1% AEP). I note that these maps are 'predictive' flood maps, showing areas predicted to be inundated during a theoretical or 'design' flood event, with an estimated probability of occurrence. These maps are however only to be used as an indication of relevant flood mechanisms. I note that the appeal site is not located within Flood Zone A or B in the Strategic Flood Risk Assessment undertaken as part of the Galway County Development Plan 2022-2028. Additionally, noting the nature of the proposed development, which is a less vulnerable form of development, I consider that the proposed development is acceptable in terms of flood risk.

7.6. **Impact on Built Heritage**

- 7.6.1. Noting the distance between the proposed structure and the Franciscan Friary and Claregalway Castle, which are located c. 600 and c. 800 metres from the appeal site

respectively, and the height and design of the proposed structure, I do not consider that the proposed development would detract from the character or setting of the Franciscan Friary or Claregalway Castle, nor would the proposal have a significant negative effect the National Monuments and Protected Structures which are located in the vicinity of same. Additionally, I consider that the proposed development would not impinge on any views of the Franciscan Friary or Claregalway Castle from existing viewpoints or routes.

7.7. Other Issues

7.7.1. The issue of the health impacts of the proposed development was raised by the third party. In respect of issues concerning health and telecommunications structures, Circular Letter: PL 07/12 states that, 'Planning Authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process'. Accordingly, I consider that this issue is outside the scope of this appeal.

7.8. Development Contribution (subject of first party appeal)

7.8.1. The grant of permission issued by Galway County Council included a condition requiring the payment of a development contribution. The first party has appealed this condition on the basis that it has been misapplied with reference to the Galway County Council Development Contribution Scheme, and Circular Letter PL/03/2018. A response has also been received from Galway County Council, acceding to the removal of Condition No. 10 of the Notification to Grant Permission.

7.8.2. The Development Contribution, Guidelines for Planning Authorities, published in 2013 by the then Department of Environment, Community and Local Government, as updated by Circular Letter 03/2018, provides that planning authorities are required to include waivers for broadband infrastructure (masts and antennae) in their development contribution schemes so as to contribute to the promotion of economic activity. Additionally, Part 4 of the adopted Galway County Council Development Contribution Scheme (as revised 1st August 2019) states that 'no development

contribution levies shall be payable for development (antennae and masts) associated with the roll out of the National Broadband Plan across the County'. Having regard to the forgoing, I do not consider it necessary to attach a condition requiring the payment of a development contribution in respect of the proposed development, and I recommend that Galway County Council be directed to remove Condition No. 10 of the Notification to Grant Permission.

7.9. Appropriate Assessment

- 7.9.1. The appeal site is located c. 100 metres from Lough Corrib SAC, the designation of which follows the course of the River Clare at this location. A submission was made to the Planning Authority by a third party raising concerns regarding the potential impact of the proposed development on Whooper Swans, who are noted in the submission as having been observed grazing along the River Clare. Separately, the third party appeal submission also raises concerns in respect of the potential for Whooper Swans to collide with the proposed telecommunication structure. I note that Whooper Swans are not a qualifying interest associated with Lough Corrib SAC. Regarding the potential for ex-situ impacts, specifically the impact on Whooper Swans should they use the area, noting the nature of the proposed development and the separation distance between the appeal site and Lough Corrib SAC and the scale, design and fixed nature of the proposed structure, I do not consider that the proposed development would result in any likely significant effects on Whooper Swans, including from the perspective of collision risk.
- 7.9.2. Having regard to the separation distance between the appeal site and Lough Corrib SAC and to the lack of a hydrological pathway between the appeal site and Lough Corrib SAC, I do not consider there to be any potential for polluted run-off from the construction or operational phase of the proposed development to reach Lough Corrib SAC and impact water sensitive habitats, or qualifying interests associated with Lough Corrib SAC.
- 7.9.3. Having regard to the nature and limited scale of the proposed development, the lack of a hydrological or other pathway between the site and European sites, it is

considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

8.0 Recommendation

Having regard to the above it is recommended that permission is granted and that Condition No. 10 of the Planning Authorities Notification of Decision to Grant Permission, requiring the payment of a financial contribution, be omitted.

9.0 Reasons and Considerations

Having regard to:

- (a) The DOEHLG Section 28 Statutory Guidelines; Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities, 1996, as updated by circular letter PL 07/12 in 2012,
- (b) The Galway County Development Plan 2022 – 2028,
- (c) The low landscape sensitivity of the area,
- (d) The distance between the proposed telecommunications structure and sensitive receptors, including residential development and National Monuments and Protected Structures,
- (e) The nature and scale of the proposed telecommunication structure,
- (f) The demonstrated need for the telecommunications infrastructure at this location,
- (g) Circular Letter PL 03/2018,
- (h) The adopted Galway County Council Development Contribution Scheme (as revised 1st August 2019),

it is considered that subject to compliance with the conditions set out below, the proposed development would not be visually intrusive or seriously injurious to the amenities of the area or the residential amenities of properties in the vicinity, would not be prejudicial to public health, would not have a significant impact on ecology or on European sites in the vicinity, and would be in accordance with the proper planning

and sustainable development of the area. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The developer shall provide and make available at reasonable terms, the proposed support structure for the provision of mobile telecommunications antenna of third-party licenced telecommunications operators.</p> <p>Reason: In the interest of avoidance of multiplicity of telecommunications structures in the area, in the interest of visual amenity and proper planning and sustainable development.</p>
3.	<p>Within six months of the cessation of the use of the telecommunications structure, all structures shall be removed from the site, and the site shall be reinstated at the operator's expense in accordance with a scheme to be agreed in writing with the Planning Authority as soon as practicable.</p> <p>Reason: In the interest of protecting the landscape.</p>
4.	<p>Details of the proposed colour scheme for the telecommunications structure and ancillary structures shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
5.	<p>A low intensity fixed red obstacle light shall be fitted as close to the top of the mast as practicable and shall be visible from all angles in azimuth.</p>

	Reason: In the interest of public safety.
6.	No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage of the site. Reason: In the interest of the visual amenities of the area.
7.	Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority. Reason: In order to safeguard the residential amenities of property in the vicinity.

Ian Campbell
Planning Inspector

8th November 2022