



An
Bord
Pleanála

Inspector's Report

ABP-313490-22

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| Development | Construction of a 27M multi-user telecommunications support structure carrying 10 no. antennas and all associated site works. |
| Location | Port Road, Gortlee, Letterkenny, Co. Donegal. |
| Planning Authority | Donegal County Council |
| Planning Authority Reg. Ref. | 2250239 |
| Applicant(s) | Signal Infrastructure Ltd. |
| Type of Application | Retention. |
| Planning Authority Decision | To refuse. |
| Type of Appeal | First Party |
| Appellant(s) | Signal Infrastructure Ltd. |
| Observer(s) | Tobin's Service Station |
| Date of Site Inspection | 18 th August 2022 |
| Inspector | Deirdre MacGabhann |

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1.0 Site Location and Description

- 1.1. The 0.01ha appeal site is situated in Letterkenny Town, County Donegal. It lies to the east of the town centre, on the southern side of the Port Road (R229). To the west of the site is Foy and Company (a furniture, interior design and paint shop), to the east is a tributary of the River Swilly, Sprack Burn (WFD river waterbody Swilly (Donegal)_10) and to the east of the river are commercial buildings. A drainage ditch runs approximately parallel to and west of Sprack Burn across the site.
- 1.2. On the northern side of the Port Road is Tobins Service Station and to the north of this Letterkenny Shopping Centre. Tobins Service Station hosts telecommunications equipment on its rooftop. To the north east of the site, also north of the public road, is a campus of the Atlantic Technological University (ATU).
- 1.3. The appeal site comprises a strip of land alongside the car park serving Foys and two extensions off this strip, one to the north along Port Road and one to the south towards the river. Existing land use is a mix of scrub and woodland.

2.0 Proposed Development

- 2.1. The proposed development comprises the erection of a 27m multi-user telecommunications support structure carrying 10 no. antennas and associated remote radio units, 5 no. communication dishes, 3 no. lightning finials and stated 10 no. outdoor cabinets, located to the north and west of the tower (NB Site Layout Plan, drawing no. DL_2343-105 PA indicates 8 no. outdoor cabinets). Access to the site is proposed via the regional road, R229, with an internal access road (3m wide, c.85m in length) providing access to the support structure. The tower will be situated c.55m from the public road.
- 2.2. The telecommunications infrastructure is located in a security compound with 2.4m high palisade fence and stated 4m wide access gate (Site Layout Plan, drawing no. DL_2343-105 PA shows a 2m wide gate). Site access works include culverting, in part, the existing drainage ditch which crosses the site. The development will provide mobile voice and data services in the area. The planning application includes:

- Indigo Planning Report (February 2022). States that the development is brought forward by Cignal Infrastructure Ltd, a infrastructure provider which specifically facilitates co-location to the communications sector in the State. It is stated that the site is designed as a multi-user site, the proposed site is actively required by Eir who are looking to expand their services in the area and the development will provide cover in a blackspot for the company. A map of existing telecom providers is provided in drawing no. DL_2343-101. The Technical Justification refers to four telecom sites in the immediate area of the subject site, DO0163 (Tobins Statoil), DO0208 (Dillons Hotel, Main Street), DLLKY/DL003/4092 (Kinneare Lane) and DO0205/DL132 (Letterkenny Garda Station), with each of these excluded due to no site sharing opportunities (Tobins), existing presence of Eir at the site and no benefit to blackspot (Dillons, Kinneare Lane) or intervening urban streetscape (Letterkenny Garda station).
- Flood Risk Assessment. Includes that:
 - The proposed compound is located in a coastal and fluvial flood risk zone, with a low/medium probability of flooding, and the proposed access track runs through a high risk zone (Appendix A, FRA – Preliminary Flood Risk Assessment).
 - The southern part of the site compound is subject to fluvial flooding with 1% and 0.1% AEPs (Annual Exceedance Probability) and the access road is subject to 10%, 1% and 0.1% AEPs. For coastal flooding, a small portion of the southern site compound is subject to flooding with 0.1% AEPs and the part of the access road is subject to 10%, 1% and 0.1% AEPs (Appendix B, CFRAMs – Catchment Flood Risk Assessment and Management Study).
 - No history of flood events within proposed site boundary.
 - Part of the proposed development works are scheduled in an area identified as Flood Zone A (access track – probability of flooding is greater than 1% for river flooding and 0.5% for coastal flooding) in the North Western – Neagh Bann CFRAM Study UoM 01 Hydraulics Report. Justification test required.

- Justification Test – Considers that use is in keeping with the zoning of the site and policies of the County Development Plan, development will not increase the risk of flooding elsewhere (small area of site and incorporation of trenches and soakaways to mimic current regime and compensatory storage in drainage design), development will not affect people/property etc. or give rise to residual risks (flood sensitive equipment raised above ground, no change to flow regime, no pollution during construction and operation) and development is compatible with wider planning objectives. Development deemed to have passed the justification test.
- Visual Impact Assessment. Concludes that the development will largely have a imperceptible to slight visual impact.
- Radio Emissions Statement.
- Landowner consent letter.
- Drawings.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 7th April 2022 the planning authority decided to refuse permission for the development for two reasons. In summary these are (i) insufficient justification for inability to co-locate on existing structures. Development therefore materially contravenes policy TC-P 3 of the County Development Plan, and (ii) absence of assessment on the likely impact of the development on Lough Swilly SAC and SPA and risk of significant effects on the integrity of European sites.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Appropriate Assessment Screening Report (4th April 2022) – Sites lies c.710m from Lough Swilly Special Area of Conservation (SAC) and c.1.56km from Lough Swilly Special Protection Area (SPA). Considers that in the absence of

an ecological assessment it is not possible to conclude that the proposed development will not have a significant impact on water resources or water quality and as the site is hydrologically connected to Lough Swilly SAC, it is not possible to exclude significant effects on European sites.

- Planning Report (4th April 2022) – Refers to the nature and location of the development, third party submissions, planning history of the site and local and national policy context. Examines the merits of the development under a number of headings and considers the principle of the development, arrangements for access, public health, flooding and conclusions in respect of EIA, to be acceptable. Raises concerns in respect of justification for the development (co-location on other existing site), visual impact on approach to Letterkenny and appropriate assessment (AA required). The report recommends refusing permission for the development.

3.2.2. Other Technical Reports

- Building Control (4th March 2022) – All works to comply with Building Regulations.
- EE Roads (7th March 2022) – Recommends conditions for any grant of permission.

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

3.4.1. There are one third party observations on the application. It raises the following issues:

- There is an existing telecommunications site at Bank Lane, Letterkenny which is managed by Towercom and located 600m west of the site, which should be considered for co-location.

4.0 Planning History

- PA ref. 03/88067 – Planning permission refused for erection of 4 no. commercial units and puraflo sewage treatment system.

5.0 Policy Context

5.1. National Policy

- Telecommunication Antennae and Support Structures: Guidelines for Planning Authorities 1996. The Guidelines support the role out of telecommunications infrastructure in the country. In section 4.2 Design and Siting, the guidelines recognise that location will be substantially influenced by radio engineering factors and recommends consideration of a number of factors including:
 - Visual Impact (section 4.3), the Guidelines state that visual impact is among the more important considerations which have to be taking into account at arriving at a decision on a particular application. Along major roads or tourist routes, the Guidelines state that where masts may be visible but not terminating views, it might be decided that the impact is not seriously detrimental. Similarly, along such routes it is stated that views of the mast may be intermittent and incidental and may not intrude on the general view or prospect. The Guidelines also refer to local factors which will have to be taken into account in determining the extent of visibility e.g. intermediate objects, topography, other objects in wider landscape. In the vicinity of larger towns and in city suburbs, it is advised that operators should endeavour to locate in industrial estates or in industrially zoned land or in rooftop locations of commercial or retail areas and in urban and suburban areas make use of tall buildings or other existing structures rather than the construction of an independent antennae support structure. The Guidelines also acknowledge the need for increased number of cells, to cater for a larger number of customers.

- Sharing Facilities and Clustering (section 4.5) – The Guidelines state that the sharing of installations will normally reduce the visual impact on the landscape and that *‘All applicants will be encouraged to share and will have to satisfy the authority that they have made a reasonable effort to share’*.
- Circular letter PL07/12 – Amongst other things the circular advised that planning authorities should not include time limited conditions, specific separation distances in development plans for telecommunications installations or be concerned regarding health and safety matters, which are regulated by other codes.
- National Broadband Plan – The government’s Plan to deliver high speed broadband services to all premises in Ireland.

5.2. Donegal County Development Plan 2018 - 2024

- 5.2.1. Letterkenny is a Layer 1 settlement in the current County Development Plan’s core strategy. The appeal site, within the Town Centre boundary, is zoned for ‘Commercial’ use in Map 12.1B Land Use Zoning Map and, lying within a proposed linear park, is identified for ‘Recreation, Amenity and Open Space’ in Map 12.1A: Urban Design Framework.
- 5.2.2. Section 5.3 sets out policies for telecommunications. The overall aim of the Plan is to *‘facilitate the development of a high quality and sustainable telecommunications network for the County as a critical element to support growth in all areas of the economy and increase the quality of life for the people of Donegal’*. Policy objective TC-O-1 facilitates the development and delivery of a sustainable communications network across the county, with due regard to natural and built heritage and environmental considerations. Policy TC-P-3 requires co-location or new or replacement antennae and dishes on existing masts and clustering of new masts at existing sites (unless a fully documented case is submitted for consideration) and siting in accordance with the Telecommunications Antennae and Support Structures, Guidelines for PAs 1996 (as amended). TC-P-7 requires that access roads associated with telecommunications development must be designed and landscape to avoid visual and environmental disruption of the landscape, comply with Article 6

of the Habitats Directive and have regard to relevant conservation objectives, qualifying interests and threats to the integrity of any Natura 2000 site.

5.2.3. Section 7.1 of the County Development Plan deals with Natural Heritage and policies of the Plan afford protection to European and national sites of natural heritage interest (Policy Objectives NH-O-1 to -O3, Policy NH-P-1).

5.2.4. Approximately 725m to the south east of the appeal site, Lough Swilly is designated as a Special Area of Conservation (Lough Swilly SAC, site code 002287) proposed Natural Heritage Area (Lough Swilly including Big Isle, Blanket Nook and Inch Lake pNHA, site code 000166). Approximately 1.5km to the north east of the site, the Swilly is designated as a Special Protection Area (Lough Swilly SPA, site code 004075).

5.3. EIA Screening

5.3.1. Having regard to the limited nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. Issues arising in respect of potential effects on European sites can be addressed under Appropriate Assessment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. First party grounds of appeal are:

- The location of the development is justified on technical grounds for the following reasons:
 - The structure will provide telecommunications infrastructure for Eir and two other operators and enable 2G voice, 3G and 4G data/broadband services and future roll out of 5G.
 - Indoor coverage in the area is poor, limiting voice and mobile broadband services. The development will improve voice and data

services in the target area, including Atlantic Technological University, Ballyraine Road, Oaklands Park, Ashlawn and the surrounding areas and road network (Figure 1 and 2, Technical Justification).

- All mobile operators and broadband providers will be able to avail of the proposed structure, with improved coverage and services in the area.
- No other surrounding sites can provide the required level of coverage in the target areas due to distance from the target areas, heights of existing structures and general terrain (see Table 1, Technical Justification). The site at 'East Tobins Statoil' site (Three:DO0163) is stated to be a rooftop site at which co-location is not possible. The site at Bank Lane/Kinnear Lane (EIR:DL_4092 and VF:DLLKY) is already in use by Eir and additional equipment at this location would not improve coverage in the target area.
- Appropriate Assessment – Appropriate Assessment Screening Report concludes that with appropriate assessment is not required, primarily due to nature and distance of development from qualifying interests.

6.2. Planning Authority Response

- 1st June 2022 – No new matters raised or additional comments on appeal.

6.3. Observations

6.3.1. On file is the following observation:

- Tobin's Service Station – It is untrue that the applicant cannot share the existing telecommunications site at Tobin's Service Station opposite the appeal site.

6.4. Further Responses

- None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, inspected the site, and having regard to relevant local and national planning policies and guidance, I consider that the main issues in this appeal are as follows:

- Co-location.
- Appropriate Assessment.

7.2. Having regard to the applicant's flood risk assessment and subject to control by condition of the mitigation measures set out in the FRA, I am satisfied that the proposed development will not be subject to inappropriate risk of flooding or give rise to greater risk of flooding off site.

7.3. Co-Location

7.3.1. The governments Guidelines for Telecommunications Antennae and Support Structures 1996 and, in line with this, policies of the County Development Plan require the sharing or clustering of telecommunications support structures and for the applicant to demonstrate reasonable efforts to share existing facilities.

7.4. Having regard to the identified Eir blackspot, the location of alternative sites in the wider area and the potential for decline in service with distance and/or intervening urban structures I would accept that the alternative sites considered by the applicant are not generally appropriate for co-location to address the needs in the target area. However, the main omission to this conclusion is the site on the roof top of the building opposite the appeal site at Tobins Statoil site. The appellant has argued that it is not possible to co-locate at the site, however no technical justification is given for this conclusion and the owner of the Tobins site has indicated that it is available and has provided information to support this (see emails between Cellnex and Tobins, Cignal is a subsidiary of Cellnex¹).

7.5. With regard to visual impact, I would accept the applicant's findings that the development will be most visible from the north west along Port Road and when passing the site (Views 1 to 4). Views of the site will also be exacerbated by the

¹ Acquired in 2019.

construction of the proposed access road and loss of vegetation from the foreground. Of note, the development is also located on land zoned in the Master Plan for the town as Recreation, Amenity and Open Space lands, at one of the entrances to a linear park.

- 7.6. The Government's guidelines for telecommunications which encourage co-location, for visual impact purposes and state that applicants '*will have to satisfy the authority that they have made a reasonable effort to share*'. I am mindful that the guidelines refer to 'reasonable effort' and that it is incumbent on all parties to make such efforts. However, having regard to the foregoing and the potential for visual effects locally and at an entrance to a proposed linear park, I am not satisfied that the applicant adequately demonstrated that it is not possible to co-locate on the existing structures, for example by way of technical argument or other demonstrable reason.
- 7.7. In the absence of further information in this regard, I am not satisfied that the proposed development therefore complies with government guidelines on policy TC-P-3 of the County Development Plan.

8.0 Appropriate Assessment

8.1. Appropriate Assessment- Screening

Compliance with Article 6(3) of the Habitats Directive

- 8.1.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background on the Application

- 8.2. The appellant has submitted an Appropriate Assessment Screening Report (May 2022). The report describes the proposed development, including a description of construction methodology, the nature and timing of works and provides a description of the receiving environment (having regard to desk studies and field survey on 4th May 2022). It identifies likely significant and in-combination effects on European sites within the zone of influence of the project and concludes that, on the basis of objective information, the development individually or in combination with other plans or projects, in view of best scientific knowledge, is not likely to give rise to impacts

which would constitute significant effects on Lough Swilly SAC, Lough Swilly SPA or any other European sites.

- 8.3. Having reviewed the documents I am not satisfied, for the reasons stated below, that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment – Test of Likely Significant Effects

- 8.4. 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 a European site(s).

Brief description of the development

- 8.5. The proposed development comprises the construction of a 27m multi-user telecommunication support structure carrying telecommunications equipment for three operators, outdoor cabinets, a site compound, with 2.4m security fence and 4m gate, and 3m wide access road. It includes provision of a culvert under the access road as it crosses a drainage ditch on the site. Construction involves temporary fencing, detailed survey of services, stripping and spreading of soil from the compound area to provide a level surface, excavation for tower foundation, installation of shutters and steel rebar, pouring of concrete, installing trench soakaway, ducting, construction of plinths (poured concrete), installation of palisade fencing and removal of waste from site. Tower installation involves installation of crane alongside site, delivery of pre-assembled sections, lift off via crane and installation of tower by section, removal of crane and site tidy up. Duration of works is c.6 weeks. Working hours 8am to 5pm Monday to Friday.

Submissions and Observations

- 8.6. The planning authority's second reason for refusal is, in the absence of any assessment or competent statement on the likely effect of the development on Lough Swilly SAC and SPA, the risk of significant effects on the integrity of European sites.

European sites

- 8.7. Having regard to the nature, scale and form of the development, the appellant's Screening Report identifies a likely zone of impact as within 2km of the development. This is not unreasonable given the modest size of the subject site, limited earthworks and duration of works.
- 8.8. Lough Swilly Special Area of Conservation and Special Protection Area lie within this distance of the site and are hydrologically connected to it via the watercourse which crosses the site and Spark Burn which lies to the east of it. Hydrological distance between the appeal site and the SAC and SPA is c.2km and c.3.6km respectively (see Table 3.1, Screening Report).
- 8.9. Qualifying interests and conservation objectives for these sites are shown below.
- 8.10. Lough Swilly SAC is a large site, situated in the northern part of Co. Donegal, comprising the inner part of Lough Swilly. It extends from below Letterkenny to just north of Bunrana. Lough Swilly is a long sea lough, cutting through a variety of metamorphic rocks on the west side of Inishowen. The main rivers flowing into the site are the Swilly, Lennan and Crana. At low tide, extensive sand and mudflats are exposed, especially at the mouths of the Swilly and Lennan rivers. The site is estuarine in character, with shallow water and intertidal sand and mudflats being the dominant habitats. The site is an SAC selected for habitats and species shown below. Sensitivities include fishing, aquaculture, urbanisation, outdoor sport and leisure activities, invasive species, pollution to surface waters and human induced changes in hydraulic conditions.
- 8.11. The SPA comprises the inner part of Lough Swilly from just east of Letterkenny northwards to Killygarvan (c. 2 km north of Rathmullan) on the west side and to c. 2 km south of Bunrana on the east side; it includes the adjacent Inch Lough. Also forming part of the site is a series of improved pasture and arable fields on the south side of Lough Swilly between Farsetmore and Inch Levels – these are of importance to geese and swans. It includes sections of the estuaries of the River Swilly, the River Lennan and the Isle Burn and the predominant habitat is a series of extensive sand and mud flats which are exposed at low tide. Other habitats represented in the site are salt marshes, lagoons (at Inch Lough and Blanket Nook), rivers and streams, sand and shingle beaches, lowland wet and dry grasslands, drainage ditches, reedbeds and scrub. The site supports an excellent diversity of waterfowl species in

autumn and winter as well as breeding terns, gulls and ducks. The shallow waters provide suitable habitat for grebes and diving duck, while the intertidal flats are used by an abundance of wildfowl and waders. At high tide, the duck and wader species roost on the salt marshes and shorelines, with some species moving to the adjacent pasture and arable fields. The combination within this site of extensive feeding areas and safe resting and roosting sites makes this one of the most important wetlands in the north-west of the country for wintering waterfowl. Qualifying interests of the site are shown below. Sensitivities include cultivation, fertilisation, hunting, grazing, urbanised areas, aquaculture and nautical sports.

| European Site (code) | Qualifying Interests | Conservation Objectives |
|---------------------------|---|---|
| Lough Swilly SAC (002287) | <ul style="list-style-type: none"> • Estuaries [1130] • Coastal lagoons [1150] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330] • Molinia meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410] • Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] • Lutra (Otter) [1355] | <ul style="list-style-type: none"> • To maintain or restore the favourable conservation condition of the QIs with reference to defined attributes and targets. |
| Lough Swilly SPA (004075) | <ul style="list-style-type: none"> • Great Crested Grebe (<i>Podiceps cristatus</i>) [A005] • Grey Heron (<i>Ardea cinerea</i>) [A028] • Whooper Swan (<i>Cygnus cygnus</i>) [A038] • Greylag Goose (<i>Anser anser</i>) [A043] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Wigeon (<i>Anas penelope</i>) [A050] • Teal (<i>Anas crecca</i>) [A052] • Mallard (<i>Anas platyrhynchos</i>) [A053] • Shoveler (<i>Anas clypeata</i>) [A056] | <ul style="list-style-type: none"> • To maintain or restore the favourable conservation condition of the QIs with reference to defined attributes and targets. |

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| | <ul style="list-style-type: none"> • Scaup (<i>Aythya marila</i>) [A062] • Goldeneye (<i>Bucephala clangula</i>) [A067] • Red-breasted Merganser (<i>Mergus serrator</i>) [A069] • Coot (<i>Fulica atra</i>) [A125] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Knot (<i>Calidris canutus</i>) [A143] • Dunlin (<i>Calidris alpina</i>) [A149] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] • Greenshank (<i>Tringa nebularia</i>) [A164] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Sandwich Tern (<i>Sterna sandvicensis</i>) [A191] • Common Tern (<i>Sterna hirundo</i>) [A193] • Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] • Wetland and Waterbirds [A999] | |
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Identification of Likely Effects

8.12. The development will result in the loss of scrub and trees on the site and earthworks to include levelling, creation of access road, installation of culvert and concrete pad for tower and installation of trenches and soakaways (to retain flood characteristics), with the potential for contaminated surface water runoff to the drainage ditch or Sprack Burn, carrying sediment, concrete and hydrocarbons etc. to downstream European sites. The spread of invasive species could occur with the movement of

equipment to, from and within the site. Construction noise and visual disturbance could arise for the construction period.

- 8.13. The applicant's Screening Report considers that there is no potential for adverse effects QIs of Lough Swilly SAC due to the modest nature of the development, limited duration of works, working hours and distance of the development from the location of QIs, Estuaries (at least 2km), Coastal lagoons (19km), Atlantic salt meadows (4.1km), Molina meadows (2km), Old sessile oak woods (8.9km) and Otter (2km). It is also stated that no holting sites or couches have been identified within 150m of the development and that works will take place within daylight hours.
- 8.14. The Screening Report does not refer to construction methodology of to proposed mitigation measures in its evaluation of likely effects on QIs. This approach is consistent with case law. However, given works to be carried out on site and the potential for pollution of waterbodies in the immediate area of the site, without mitigation measures, the proximity of QIs to the site (c.2km) and direct hydrological connection between the appeal site and these, I consider that there is a risk of adverse effects on the conservation objectives of the European site (maintenance of favourable conservation condition).
- 8.15. With regard to Lough Swilly SPA, the applicant's Screening Report refers to the unsuitable habitat on site for QIs (predominantly scrub), absence of collision risk due to the location of the development in an industrial area with other high buildings (habituation) and nature, scale and location of the development which does not provide for any effect on the long term population trend or distribution of the species of conservation interest. Having regard to the location of the appeal site, c.1.5km to the west of the SPA (3km by hydrological connection), within an established urban area, I am satisfied that the proposed development does not have potential to significantly affect the QIs of Lough Swilly SPA.
- 8.16. In-combination effects are examined in section 4 of the applicant's Screening Report. This refers to developments which have been permitted in the vicinity of the site (e.g. ATU, residential development and waste transfer). It is considered that as these developments were subject to appropriate assessment which concluded that no significant effects on European sites would occur, no significant in-combination effects are predicted to arise with the proposed development. This conclusion is not

unreasonable, again having regard to the location of the development, its scale and form and limited period for construction work.

Mitigation Measures

- 8.17. Whilst mitigation measures are proposed by the applicant and detailed in the AA Screening Report, no measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

Screening Determination

- 8.18. 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:
- a. The project individually or in combination with other plans or projects may have a significant effect on European Site No. 002287 (Lough Swilly SAC), in view of the site's Conservation Objectives, and Appropriate Assessment is therefore required.
 - b. The project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site No. 004075 and (Lough Swilly SPA), in view of the site's Conservation Objectives. This determination is based on the nature, scale and form of the development and its location relative to the European site.

8.19. Appropriate Assessment

- 8.19.1. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Appropriate Assessment of implications of the proposed development

- 8.19.2. As stated above, construction works could give rise to water pollution with potential adverse effects on QIs in proximity to the site i.e. Estuaries and Molina meadows, with any impact on water quality potentially affecting community distribution (see Site Synopsis). [Molina meadows are identified as QIs of the SAC but are not referenced in the NPWS Conservation Objectives document].

8.19.3. Mitigation measures are not detailed by the applicant. In practice these may include standard and site specific measures, such as those set out in TII publication Guidelines for the Crossing of Watercourses during Construction of National Road Schemes and IFI's IFIs Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters. With the implementation of such measures, it is likely that adverse effects on water quality, or therefore on downstream European QIs would not arise. However, in the absence of information on such measures it is not possible to exclude the risk of adverse effects or that the development would not adversely affect the integrity of Lough Swilly SAC in view of the conservation objectives of the site.

8.20. **Appropriate Assessment Conclusion**

8.20.1. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Lough Swilly SAC (site no. 002287). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the site in light of its conservation objectives.

8.20.2. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects may adversely affect the integrity of the European site No. 002287 in view of the site's Conservation Objectives. This conclusion is based on the risk of water pollution during construction and the absence of detailed mitigation measures.

9.0 **Recommendation**

9.1. I recommend that in the absence of further information, permission for the development be refused.

10.0 **Reasons and Considerations**

1. Having regard to the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July 1996, which encourage

co-location, the presence of a nearby site and the limited justification provided for co-location on this site, the board is not satisfied that the developer has made a reasonable effort to comply with the Guidelines. The proposed development would, therefore, be inconsistent with national Guidelines, materially contravene Policy TC-P-3 of the Donegal County Development Plan 2018-2024 and be contrary to the proper planning and sustainable development of the area.

2. Having regard to the location of the site upstream of Lough Swilly Special Area of Conservation (site code 002287), the risk of water pollution arising during construction and the absence of mitigation measures, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that the development individually or in combination with other plans or projects would not adversely affect the integrity of the European site. In such circumstances, the Board is precluded from granting permission.

Deirdre MacGabhann
Planning Inspector

29th August 2022