



An
Bord
Pleanála

Inspector's Report 313510-22

Development	24m high telecommunications support structure
Location	Monument, Lixnaw, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	21/376
Applicant(s)	Vantage Towers Ltd
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Vantage Towers Ltd
Observer(s)	Marie Molyneaux
Date of Site Inspection	22 nd March 2023
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site is located in an elevated greenfield setting to the northeast of Lixnaw village – approx. 700m from the Main Street across land. It is adjacent to a quarry – not operational at time of inspection.
- 1.2. The site is accessed off a rural road (Monument) to the east along which there are some one-off houses. It is accessed via a track along the north side of the quarry pit and alongside a field boundary/hedge. There are views of the village to the west across the intervening fields. Former railway route traverses the townland to the south of the corridor which is the location of the planned Greenway.
- 1.3. The Lixnaw area has a historic association with the Lords of Kerry being their place of settlement dating from Anglo-Norman times through the 17th/18th centuries. There are a number of ruins and structures associated with these eras and which contribute to the heritage value around the village area. In the wider area there are a number of ecclesiastical remains such as in Rattoo and Desky around 4km to the north. There are a number of National Monuments / NIAH sites within the quarry site and in the wider environs reflecting this heritage in part. The latter period is most relevant to this case as it was time of the creation of the Baroque Landscape for which Lixnaw is reputed.
- 1.4. The terrain in the immediate locality is undulating and rises steeply to the southeast in the direction of the Stack mountains. Vertical features in the wider area include wind turbines on elevated ground to the southeast and electricity powerlines supports poles.

2.0 Proposed Development

- 2.1. Permission is sought for a 24m lattice telecommunications structure with associated equipment (dishes and antennae) on its three sides and at three different levels at the top end. It is for Vodafone services and also designed to accommodate multiple users. The proposed palisade fenced compound is 10m x 10m and includes cabinets and associated equipment at ground level. .
- 2.2. It is explained that the area is identified as needing improved services to address Vodafone's coverage in Lixnaw which can only be achieved through height and

capacity. The T557 regional route corridor in addition to the local road network will also benefit from this improved coverage.

- 2.3. The cover letter explains how the proposal adheres to the guidelines in respect of design and siting, visual impact, criteria in circular PL03/2018 in that the site is in a greenfield location away from the village centre and in an agricultural setting adjacent to a quarry and thereby providing adequate coverage without adverse impacts.
- 2.4. Photomontages are provided as part of further information and show views of the site from Lixnaw village and lands to the north, west and east.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Refusal of permission based on:

- material contravention of Listowel Municipal District Plan Objectives LW-BE-03 and LW-BE-04,
- would seriously interfere with views of historic landscape and its component constituents and would detract from the character and setting of protected structures in the village area (NIAH reference 21301503 the old court) and would cause irreparable damage to the historic landscape in this area.
- would dominate immediate historic settlement.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Further information sought regarding visual impact/photomontages and justification at the location and for level of coverage generated and why clustering with other operators not considered.
- The final report recommends a refusal of permission on the basis of the conservation planning report.

3.2.2. Other Technical Reports

- Conservation planner: recommends refusal by reference to ICT-4 (sensitive siting of masts) having regard to the impact on the designed historic landscape in that it would seriously interfere with views of a historic landscape and its components, detract from character and setting of the old court NIAH 21301503 having regard to objectives to protect same as stated in LW-BE-03 and 04 in the Listowel Municipal District Plan and KCDP 8-48 requiring sensitivity of proposals in such built heritage settings.
- County archaeologist: no recorded monuments listed in the Record of Monuments and Places in proximity to the proposed development site which has previously been disturbed. No mitigation required.

3.3. Prescribed Bodies

No reports

3.4. Third Party Observations

- 3.4.1. Objections on grounds of visual impact on village, Baroque landscape, and amenity area/public right of way route, environmental impact, proximity to school, traffic hazard, noise and health risks and site notice issues.

4.0 Planning History

- 4.1.1. ABP ref 313007-22 Refusal of permission for 10-year permission and 35-year operational life of a windfarm consisting of 7 turbines, meteorological mast and ancillary works and equipment. The inspectors report concluded with concerns related to the impact of the proposal on the setting and context of the historic landscape, particularly on the setting of the medieval ecclesiastical sites at Rattoo (4.5km north of Lixnaw and Dysert. Notwithstanding The reason for refusal states:
- Development objective 12-20 of the Current County development plan 2022 to 2028 seeks to ensure that commercial wind energy projects would not be considered in areas outside of 'open to consideration' and 'Repower areas'.

These areas are presented on Map 12.4: wind energy areas of the development plan. The proposed development site is outside of areas designated as being either a 'Repower area' or an area that is 'open to consideration'. The Board was not satisfied that notwithstanding the benefits of renewable energy proposals and the support at a national level the proposed development would in this instance be plan led as it would not be in accordance with the stated objective of the development plan. The proposed development would therefore be contrary to proper planning and sustainable development.

5.0 Policy Context

5.1. National Planning Framework

- NPO 24 refers to supporting and strengthening infrastructure for rural economies.
- NPO 48 refers to developing a stable, innovative and secure digital communications and services infrastructure.

5.2. Telecommunications Antenna and Support Structure – Guidelines for Planning Authorities (1996)

- 5.2.1. These guidelines set out current national planning policy and criteria for the assessment of telecommunications structures. Guidance is provided on site selection, minimising adverse impact, sharing and clustering of facilities and development control.
- 5.2.2. The Guidelines are generally supportive of the development and maintenance of a high-quality telecommunications service. In section 4.3 it is stated that the visual impact is among the more important considerations. It is also acknowledged that in most cases the applicant will only have limited flexibility as regards location, given the constraints arising from transmission parameters. Only as a last resort and if the alternatives are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools or the immediate surrounds of smaller towns and villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antenna should be designed and adopted for this specific location. The support structures should be

kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure. The sharing of installations and clustering of antenna is encouraged as co-location will reduce the visual impact on the landscape (Section 4.5).

5.3. Circular Letter PL07/12

5.3.1. This circular letter revises elements of the 1996 Guidelines including that:

- attaching a condition to a permission for a telecommunication mast and antennae which limit their life to a set temporary period should cease, except in exceptional circumstances.
- Planning authorities should also cease specifying separation distances for such developments when making Development Plans as they can have a major impact on the roll-out of viable and effective telecommunications network. It advises that whilst the 1996 Guidance on development plan policies restricting development may be reasonable, there has been a growing trend for the insertion of development plan policies which specify minimum distances from schools and houses, such as 1km. It is stated that such distances, without allowing for flexibility on a case-by-case basis, can make the identification of sites for new infrastructure very difficult.
- Planning authorities should be primarily concerned with the appropriate location and design of telecommunication structures and do not have the competence for health and safety matters in respect of telecommunication infrastructure. These are regulated by other codes and such matters should not be additionally regulated in the planning process.
- Development Contribution Schemes must include waivers for broadband infrastructure and these waivers are intended to be applied consistently across all local authority areas.

5.4. Development Plans

5.4.1. **General**

- Lixnaw is a village within the Listowel Municipal District. The Kerry County Development Plan 2022-28 (CDP 2022-2028) currently applies, whereas at the time of the application the previous County Development applied.
- The Listowel Municipal District Plan 2020-2026 remains relevant to Lixnaw although that plan refers to the framework of the previous CDP. Section 3.11 states that the zoning of lands in the current municipal district/ electoral area local area plans is consistent with the existing and proposed core strategy. These LAPS will be updated and replaced over the lifetime of this plan in line with the core strategy.
- The site is outside the development area of Lixnaw village and lands are not subject to specific land use objectives.

5.4.2. **Kerry County Development Plan 2022-2028**

5.4.2.1. **Settlement strategy:** Lixnaw is classed as a village falling into the category of rural areas under urban influence being of a type that is well developed and supported by a strong rural agricultural base. Such areas are identified as areas that accommodate clustering of development,

5.4.2.2. **Visual Amenity and Heritage:**

- In Map 3 Volume 3 the site is outside the visually sensitive landscape areas. In the Landscape Review it is in area no 5 'Listowel and the Cashen River' landscape character area of which there are 40. (Details attached in pouch on file).
- In section 8.4.5 historic landscapes are identified as reflecting a tangible link with the past and section 4 also refers. Relevant objectives include:
 - KCDP 8-49 seeks to carry out further research and analysis to identify, survey and to promote the conservation of historic landscapes.

- KCDP 8-50 requires the proposals for development within historic designed landscapes be sensitive to and respect the built heritage elements and green space values of the site.
 - KCDP 8-39 Ensure that rejuvenation and placemaking projects in the county enhance the physical, social, architectural, and historic settlement pattern of the locality.
 - KCDP 8-40 Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting including designed landscape features and views, is compatible with the special character of that structure.
 - KCDP 4-3 Preserve the architectural heritage of towns and villages and promote conservation-led regeneration and the re-use of buildings where possible.
- The role of parks and accessible walking routes is identified as part of sustainable Communities.
 - Section 10 refers to tourism and outdoor recreation.

5.4.2.3. **Digital connectivity:** Section 14.9 refers to digital connectivity and to the importance of the modern efficient telecommunication system telecommunication masts are an essential element in providing communication networks through the county. The council recognises that the current infrastructure in this sector is deficient and aims to support sustainable provision of telecommunications and infrastructure throughout the county **at appropriate locations including rural areas where practical** (section 14.9.1)Page 318 lists the objectives of the council in respect of digital connectivity:

- KCDP 14-71 Facilitate the sustainable delivery of high-speed, high-capacity digital and mobile infrastructure and support the continued investment and the delivery of ICT infrastructure, broadband networks and digital broadcasting in the County in line with the National Broadband Plan for Ireland.

- KCDP 14-72 Develop Smart Towns/Villages as engines for a Smart County (urban and rural) by supporting the initiatives of the All-Ireland Smart Cities Forum, seeking good practices yielded through living labs, testbeds and investment in the initiatives of stakeholders as well as integrating smart mobility initiatives.
- KCDP 14-73 Support the sustainable provision of modern and innovative telecommunications infrastructure at appropriate locations.
- KCDP 14-70 Protect all existing Public Rights of Way (including those not listed in this plan) and ensure that development does not impinge on these routes.
- KCDP 14-75 Promote the preparation and support the implementation of a digital strategy, seek investment for actions identified, and support the role and initiatives of the Mobile and Broadband Taskforce in addressing digital and mobile coverage blackspots and rural communications connectivity.

5.4.3. Listowel Municipal District Plan 2020- 2026

- Rolling out broadband and telecommunication infrastructure is a key strategic issue for the district. (section 2.1.3). Section 3.1.45 refers to village development and objectives V-01 to V06 inclusive seek to consolidate development and improve facilities in these areas while preserving the village’s architectural heritage and maintaining integrity of surrounding rural landscape.
- Built environment objectives relate to the environs of the site:
 - LW-BE-03 Protect and enhance the historic landscape character of Lixnaw associated with the Old Court and associated historic Canals, avenues and built heritage in recognition of its importance as a designed Baroque landscape, of a scale unique in Kerry.
 - LW-BE-04 Protect and enhance views along the canal routes and views to the Heritage and site of the Earl of Kerry’s Monument in recognition of the landscape design and symmetry afforded by buildings, canals and tree lined avenues (the Avenue and Gortaneare Avenue) to terminal vistas afforded by the Hermitage, the Monument, Rattoo tower.

The site is outside the settlement boundary - housing is planned for the north south and west of the village core. The walkway/ greenway route is indicatively shown along the former railway line.

5.4.4. **CDP 2015-2021**

ICT -4 locate telecommunication masts in non-scenic areas or in areas where they are unlikely to intrude on the setting of, or views of/ from national monuments or protective structures or have an adverse effect on the environment including the integrity of natura 2000 sites

5.5. **National Inventory of Architectural Heritage (NIAH)/National Monuments Service Site and Monuments Records (SMR)**

- **Fitzmaurice Monument**, Kilbinane Hill, 225m southeast in quarry pit – This in the townland Monument in Lixnaw. (Reg No 21301602.) It has 'Regional' rating and is in the special Interest category of Historical, Social. The use is described as Monument and dates from 1690 – 1695 . Site of freestanding single-bay two-stage tower, built 1692, on a circular plan. Demolished, 1962, retaining trigonometrical point. The NIAH ref KE016-014002 monumental structure describes the tower as being 12m high with a 30m circumference. The tower contained four semi-circular windows. The tomb was circular in shape, c 4.5m in diameter and had a flat stone roof. The tomb lay directly under the tower, so the tomb's roof was the tower's floor. The tower was protected by a wall 3.5m high. William died in 1697 and according to tradition was buried here, as were his father and son. The coffin was made of lead and was desecrated by 'Moonlighters for the making of ammunition during the land war. It was demolished by the County Council for quarrying purposes in 1962 and no surface trace of it can be seen today' (O'Ruane). This townland was originally called Kilbinane but was renamed after Fitzmaurice's burial monument. The above description is derived from C. Toal, 'North Kerry Archaeological Survey'.
- KE016-01055 Church, **Kilbinane Church** (site of). C.185m southeast of the site in the quarry. The church of St Benignus originally occupied the summit of a round hill and the townland was called after it. However, no trace of this church survives.

- KE016-013001 Souterrain. Circular enclosure KE016-013---- is situated SE of KE016-076---- in the same field. It is marked on the 1841-42 and 1914-15 OS maps, and on the earlier edition 'cave' (KE016-013001-) is marked in the interior. No surface trace survives today.
- KE01054 Souterrain Circular enclosure and KE1053 Ringfort c. 100m north of site
- KE01120/1 Ringfort/enclosure c 175m north of site
- KE01052 ringfort c 500 sw of site
- NIAH 21301503 **Old Court** country house (previously Lixnaw House) c. 500m west of Lixnaw village in ruinous condition. Also KE00954 in the NMS refers to the **Castle /The Hermitage** 17th -18th century date. c.1.5km to southwest of the site.
- KE00953 **Castle** original Anglo-Norman 11/12th century.

5.6. Natural Heritage Designations

- 5.6.1. Lower River Shannon SAC site code 002165 is the nearest Natura 2000 site at a distance of c.1.4km to the west at its nearest point - a part of the canal network feeding into this site is c. 400m to the east of the site .

5.7. Material contravention – Section 37 (2) (b) and (c) provisions

S.(2) (b) of the PDA states

'Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to F362[regional spatial and economic strategy] for the area,

guidelines under **section 28**, policy directives under **section 29**, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

Section 2 (c) states

(c) Where the Board grants a permission in accordance with paragraph (b), the Board shall, in addition to the requirements of **section 34**(10), indicate in its decision the main reasons and considerations for contravening materially the development plan.

5.8. EIA Screening

Telecommunications mast is not a class of development for which EIA is required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Vantage Towers has submitted an appeal against the decision to refuse permission on the following grounds:

Justified need but limited site options.

- Not feasible to use the closest structures to Lixnaw as they are too far away to secure the necessary propagation to supply services in Lixnaw and the surrounding area.
- Alternatives considered: the water tower and an industrial unit were considered but they were either too far or too low in height to secure the coverage necessary. No other sites or applications were identified as suitable.
- topography of Lixnaw:: There are very few hills to the north in the undulating terrain. The stack mountains are to the east and rise steeply. An ideal site is on

raised lands close to the village and towards the northeast and the subject site is close to the village yet positioned to cover the R557 and the N69.

- Lixnaw has no industrial zoning or existing utilities sites resulting in a need for a new village-centre based site. At the same time, the LAP states it is important that Lixnaw increases its population and continues to provide for the service needs of its residents⁹ (...and to preserve opportunities to create a compact and attractive village form into which future development could integrate in a coherent and sustainable manner)- a centrally located mast would therefore not be ideal for this form of village development. The industrial unit to the South of the village is too far to secure the target coverage.

No significant impact on architectural heritage, historic landscape or archaeology

- The proposed structure is towards the northeast of the village away from the structures referred to within the LAP. Saint Michael's Catholic Church is a protected structure (PSKY- 21301601) and there are two recorded monuments with buffer areas that are also within the plan area for Lixnaw. There are three recorded monuments outside the plan area to the West.
- The proposed structure is set back from the planned Kerry Greenway by approximately 337m and will benefit users of the route by providing important data services for users. The anticipated tree lining means visual impact will be minimal and intermittent at best as illustrated in maps.
- It is explained that the planning application for the Emerald structure to the South of the village was days after the lodgment of the subject case and therefore not factored in at the time of appeal. It is further explained that the subject proposal has advantages over the [permitted] Emerald proposal and appraisal has been inconsistent. E.g. the conservation officer did not make any comment on that case despite the emerald structure being closer to the Old Court referred to in the subject refusal.
- It is submitted that the visual impact of the proposed mast would not detract from the heritage features: It would not seriously interfere with the views of the historic landscape and its component constituents. It would not detract from the character and setting of protected structures in the village. It would not cause irreparable

damage to the historic landscape of the area and would not dominate the immediate historic settlement and therefore would not materially contravene objectives LWW- BE-03 and LW-B-04 in the municipal district plan 2020- 2026 and would therefore not be contrary to the proper planning and development of the area.

- It is submitted that there is an inconsistency in respect of the treatment with the emerald application wherein the monuments located within the quarry were removed by the council many years ago in fact they were blown up for their stone to contribute towards roads building. It is further submitted that the remaining structure shown east of the village and others around its edge are ring forts and circular enclosures. It is submitted that the proposed structure would not impact on any of these in any manner. With regard to the structures to the west of the village including the Old Court, this is submitted the village and the trees in between act to substantially reduce if not totally high to the proposed structure.
- It is acknowledged that from the earliest maps found that the landscape was once grand and easily recognisable as being of the baroque style, however it has since been altered - a later map shows the railway line built through the area. The quarry has destroyed any hint of a baroque landscape within the area of the proposed structure. It is therefore submitted that the proposed development does not contravene the development plan. The proposed site is also away from the protected areas and structures the canals and associated views referred to within the reason for refusal and she submitted and demonstrated by the montage in the further information that the visual impact. The distance from these protected structures, trees surrounding them and the nearby fields plus the village and the in between the floral flora alongside along the side of the road network all act to mitigate the views of the proposed structure. Route 2 tower is approximately 4.5 kilometers to the northwest and too far away therefore to identify the proposed structure from wind farms the stack mountains to the east are visible from different locations around looks normal they are even in the photomontage submitted with the FI from some viewpoints referred to within the refusal to submitted that the dominant features will be the roles of turbines and not the telecommunication structure these are mapped.

National policy and guidance not given due consideration

- The PA planning report did not cover national policy in respect of regional and national supporting guidelines and framework documents indicating that the provision of telecommunications and infrastructure are vital to the country's economy at all levels from home to business.
- The importance of communication services has been especially emphasised in the last few years. A number of weak coverage areas have been identified and many of these are within small towns and villages such as this and high-quality high-speed services are essential for both the economy and for social purposes.
- The proposed structure facilitates site sharing.
- Telecommunications are essential for the economic development of the area as recognised in local and national policy.
- The local development plan identifies the importance of quality communications by reference to government policy on the need for top quality telecommunication services throughout the state. This should therefore be taken into consideration.

6.2. Planning Authority Response

- Nothing further to add to the reports informing the decision.

6.3. Observations

6.3.1. One observation was submitted from Marie Molyneaux - a resident in the area east of the site. Objections are made on the following grounds:

- Residential amenity: 700m from observer's dwelling and will therefore impact visually and will devalue property.
- Traffic hazard: The entrance is at a bend on a heavily trafficked route and its use constitutes a traffic hazard.
- Justification: There is already a newly laid fibre broadband which serves to enhance internet and mobile phone coverage in Lixnaw village and surrounding area.

6.4. Further Responses

None

7.0 Assessment

7.1. Issues

7.1.1. This appeal is against a decision to refuse permission for a telecommunications support structure and antennae on grounds of impact on the built heritage. Having regard to the submissions on file and the site and its environs as inspected, I consider the key issues relate to:

- Principle of development
- Impact on the built heritage and historical landscape
- Impact on residential amenities
- Traffic hazard
- Material contravention
- Appropriate Assessment

7.2. Principle

7.2.1. The Kerry County Development Plan (KCDP) and Listowel Municipal District Plan (LMDP) both acknowledge the role of enhanced telecommunications as part of digital connectivity and this is supported by national policy. The development plan has changed since the lodgement of the application and currently sets out the policy for telecommunications in Section 14.9.1 of the Connectivity chapter which takes on board a national priority for achieving critically enabling infrastructure. The plan clearly seeks to facilitate telecommunications masts in their capacity as an essential element in providing a communication network for the county. (KCDP 14-71 and KCDP 14-73)

7.2.2. The applicant makes the case that the coverage in the locality is inadequate for the demand in services and that other potential structures are 5 kilometres away and not a viable option in terms of improving service levels. Clustering with existing facilities is not an option and ultimately there are no other sites close enough for the required coverage. It is argued that this site selection basis, together with using minimal height which will have minimal visual impact, accords with the site criteria as set out in the Ministerial Guidance particularly as updated.

7.2.3. I accept that there is a need for the development in that it is part of providing improved critical infrastructure in the vicinity of Lixnaw. By reference to the Digital connectivity objectives in the KCDP, the provision of an enhanced telecommunications network service by way of the proposed structure some few hundred metres outside the village settlement, is, I consider, in principle acceptable. I consider however the use of a lattice structure on a site that is elevated and part of a expansive historic landscape that features a number of structures, sites and monuments included in the National Inventory of Architectural Heritage and the National Monument Services Records raises heritage issues having regard to the requirement for sensitive siting. In this regard I note the provisions in the LMDP for safeguarding the Lixnaw built heritage. The potential for impact on such heritage cannot be disregarded having regard to section 4.3 of the guidelines which state the importance of visual impact and this is addressed in more detail below.

7.3. Impact on Built Heritage and archaeology

- 7.3.1. In terms of visual impact, the proposed development is not sited within or near a visually sensitive landscape area as delineated in the Volume 4 (Map C) of the Kerry County Development Plan 2022-2028 nor is it within an Archaeological landscape area in Volume 3 of this plan.
- 7.3.2. In terms of archaeological setting there are a number of monuments that lie outside the development site. The nearest are approximately at distances of a 100-200m range to the northwest - in the adjacent field with an intervening hedgerow. The other sites within the townland are in the quarry area and have been substantially removed by virtue of the quarrying activities. In terms of the wider archaeological landscape, as the site is not included in any specifically designated or mapped areas for protection, the proposed development is therefore subject to assessment on its merits. While it may be in the zone of influence in terms of subsurface works, I note the county archaeologist has no issue with the proposed development in terms of impact on the archaeological heritage and no mitigation measures are required.
- 7.3.3. The heritage impact in this case relates primarily to the Baroque (17th century) landscape associated with the Lords of Kerry and associated landscape interventions such as an elaborate Canal network and built heritage notably featuring the Old Court, formerly Lixnaw House- the seat of the Fitzmaurices, the Castle /The

Hermitage and the Monument. This formally laid out landscape incorporated avenues and vistas and its character is much derived from the interplay of these features and this is a key focus in the objectives of LW BE-03 and LW BE-04). Such objectives are applied by the planning authority in this case notwithstanding the location of the Old Court and Castle (Hermitage) sites being approximately 1.5km to south west of the development site and that the Monument and approaching avenue have been destroyed by the quarrying activities. While noting the emphasis on the LMDP objectives on symmetry and vistas involving the Monument, I note that the intervening developed and planned Village however disrupts direct views.

7.3.4. The development of the greenway along the former railway on the opposite side of the quarry to the south and pathways are I accept part of new layer of amenities being developed to enhance this settlement area and this planned amenity is a sensitive receptor.

7.3.5. The proposed mast is positioned in an elevated setting a few hundred metres northwest of the previously prominent Monument – the westerly avenue to which has also been substantially obliterated by the quarrying activities. While it is sited in this Baroque based landscape, I do not however consider the proposed telecommunication structure to unduly detract from the landscape character or its component features. Nor do I consider that it will detract from the planned greenway/walkway to the south of the quarry. I say this having regard to:

- the absence of any direct intervention on a recorded site or feature of historical significance and in this regard, I note the County Archaeologist's comments that no mitigation is required,
- the extent of disturbance in the landscape by the quarrying activities and proximity to same and in the wider context of a considerably altered landscape,
- the site being outside a designated landscape area and a long distance from listed views as mapped in Vol 4,
- the siting on a local high point relative to the village settlement but lower than the surrounding mountainous terrain,
- the backdrop of the wind turbine to the southeast and the Stack Mountains to the south,
- the localised siting beside a hedgerow incorporating trees,

- the distance of at least 400m from the village and diminished visibility of the site from the centre of Lixnaw where development is planned as part of the settlement strategy,
- the siting north of the former Avenue to the Monument, the absence of the Monument structure together with the destroyed avenue due to quarrying and interrupted vista by reason of the village development, which combines to limit potential for significant visual impact on vistas along the Old Court /Monument axis.
- the visibility and context depicted in the photomontages which I consider reasonably illustrate the relatively unobtrusive scale in mid to distant views from which the wider landscape context,
- the location of the greenway to the south of the quarry and potential for visual buffering,
- the nearest protected structure (St. Michael Church) in the village being at a distance of over 600m from the site and what I consider to be,
- a ubiquitous presence in the context of electricity poles as viewed from the north and wind turbines in the wider mountainous landscape backdrop.

7.4. By way of context, I also note the Board's decision in respect of 7 turbines of a considerably larger scale to the north of the site (the application site at large substantially encompassing the subject site) and in extremely close proximity to ecclesiastical sites at Rattoo 4km to the north among other monuments and the Lixnaw canal network, yet the visual impact was not stated as a specific reason for refusal notwithstanding the points raised by the inspector in this regard. It was however in a designated visually sensitive area and considered to be not part of the plan led approach to siting wind farms.

7.4.1. While I accept that the proposed telecommunication structure will be visible in the immediate environs, I do not consider such to amount to a significant adverse impact on; the setting of landscape features (registered or otherwise), the protected structure in Lixnaw village, protected views in map 4 or on either near or distant views of specified landscape features.

- 7.4.2. I furthermore consider the site to be a reasonable and justified location in that the village centre is being avoided thereby supporting its consolidation while protecting amenities in a plan-led manner. There are no utilities sites to provide such development nor is there any zoned industrial area and in the interest of providing enhanced digital connectivity, a flexible approach is required in accordance with the section 28 guidance as cited.
- 7.4.3. While I note plans for improving outdoor amenities in the Village environs, the Board could consider a temporary permission having regard to the particular circumstances of the changing environs associated with the potential rehabilitation of the quarry site and provision of amenities over the longer term, although this is not ordinarily good practice. Another alternative could be to require a monopole instead so as to further minimise the visual impact – I do not consider the latter justified given potential limits on antennae attachments and the preference for co-locating in line with the guidelines.
- 7.4.4. I further note that while the county development plan, as adopted since the application, maintains policies and objectives to protect heritage, objective ICT -4 limiting telecommunications to non-scenic areas or in areas likely to intrude on the setting of or views of national monuments or protected structure, has not been retained. However in view of the separation distances and also the extent of localised and considerable altered landscape I do not consider the proposal to be restricted by the criteria in this objective.
- 7.4.5. Accordingly I consider the proposal would not detract from the landscape character or setting of historic landmark features such as the Old Court, The Hermitage, the Canal Network or the destroyed Monument or interplay between these features. The reason for refusal on this matter can only be disregarded where the Board is satisfied that the provisions of section 37 of the Act apply in respect of granting permission. This is addressed below.

7.5. Impact on Residential Amenities

- 7.5.1. The proposal is for a ground-based 24m high lattice structure for multiple antennae and set back at approximately 420m from the public road along which there are

residential clusters of ribbon type development. It is similarly set back from the village environs as delineated in the Listowel Municipal District Plan. Due to the undulating terrain, views of the site are obscured. This is apparent in the photomontages. Accordingly, I do not consider the proposed telecommunications structure and palisade fenced compound will be visually injurious or intrusive as viewed from the adjacent residential properties to the extent that it would seriously injure residential amenities. Arguably the improved coverage will enhance amenities. I do not consider the statement of depreciation of property value can be reasonably substantiated. I do not consider the matters raised in this regard by the observing party constitute reasonable grounds for refusal.

7.6. Traffic Hazard

- 7.6.1. The observing party raises concerns about the potential for traffic hazard at the site entrance and having regard to the use of the road by children and cyclists. I note however this is an existing quarry entrance with sightlines in the order of 130m to the east and 80m to the south. The traffic associated would be minimal and would be negligible relative to its existing use. I further note the planning authority do not raise any concerns in this regard. I do not consider traffic hazard to constitute reasonable grounds for refusal.

7.7. Material Contravention

- 7.7.1. The planning authority in its decision to refuse permission included material contravention of the development plan as a basis for this decision. Significantly, the county development plan cited has since lapsed although the Listowel Municipal District Plan 2020-2026 remains relevant where it does not conflict with the current CDP. However the current development plan has included similar objectives in protecting the built heritage while also promoting digital connectivity which is identified as a strategic aim. The LMDP identifies the particular sensitive aspects of the built heritage environment as expressed in objectives LW-BE-03 and LW-BE-04
- 7.7.2. I note the wording in the reason for refusal refers to protected structures however St. Michaels Church is the only PS in the Development Plan in Lixnaw. This is unclear and misleading as the development would not impact on St Michaels Church. The Old Court site is included in the NIAH . I also consider the separation

distance of some 1.4km between the Old Court House and the development site and intervening village weaken the visual dominance that such a structure may have outside the critical axis with the Monument site. I also consider the wording of LW BE-04 to be obscure in that it refers to views of the Heritage (possible intended to be Hermitage). Furthermore the objective encompasses extensive views and vistas and proportionally extensive tracts of land within the development boundary for Lixnaw and the extent of the protection is unclear particularly in the absence of spatially mapped views. 'Gortaneare Avenue' is not for example readily identifiable on any ordnance survey or development plan map. I consider there to be an inherent conflict of protecting views and settings in a c. 1.4km corridor while advocating compact settlement. The potentially expansive area and extent of protection is difficult to reconcile with the planned consolidation of a settlement area.

- 7.7.3. I also consider there to be an inherent conflict of objectives: land is effectively sterilised over an extensive land mass from the provision of vital telecommunications infrastructure in a peripheral but functional location outside the designated development area of Lixnaw where it is targeted for expansion as part of planned population and economic growth of the district and county. Provision of digital infrastructure is a strategic aim underlining a number of objectives in this regard. I refer to section 14.9 of the Kerry County Development Plan and objectives KCDP 14-70, 71, 72, 73 and 75.
- 7.7.4. As I have identified, noting the siting of the mast alongside a quarry together with the extent of disturbance in the present landscape, primarily by reason of the quarry but also the railway, the proposed development will not I consider unduly undermine the protection or enhancement of the historic landscape character of Lixnaw associated with Old Court and related features such the canals, avenues and other built features. While I accept that the planning authority holds a different view, I consider that in light of the strategic importance as specified in the development plan and the guidelines under section 28 which advocate flexibility and the nature of the objectives in the context of the CDP 2022-2028, the Board may consider a grant of permission as provided for in s.37 as cited.
- 7.7.5. In summary, both digital connectivity and heritage objectives apply to the site and given the nature of the proposal, the tension between these objectives has been the

subject of this assessment. I have concluded that on balance the objectives in respect of the built and landscape heritage of Lixnaw are not fully clear and that the restriction on the proposed development would unduly compromise the provision of services as provided for in the development plan. This is, I consider, contrary to the strategic aims for the county, although I have further concluded that the proposed scale is not likely to unduly detract from the built heritage or undermine objectives in this regard. In view of the national guidance and the competing objectives I would not be of the opinion that permission would materially contravene the development plan. In such circumstances, I do not consider, conflict with objectives regarding landscape heritage are grounds for refusal of permission having regard to the proper planning and sustainable development of the area.

7.8. Appropriate Assessment

- 7.8.1. Having regard to the nature of the development, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that permission be granted for the proposed development based on the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to:

- (i) The policies for digital connectivity in the Kerry County Development Plan 2022-2028 and specifically objectives KC DP 14-71, 14-72 and 14-73 which support the provision of telecommunications infrastructure subject to environmental considerations,
- (ii) the telecommunications antennae and support structures guidelines for planning authorities published by the department of the environment and local government in July 1996 has updated by circular letters PL07/ 2012

and PL11/ 2020 respectively which recognise the need for flexibility in securing a viable and effective telecommunications network,

- (iii) the documentation provided regarding potential alternative locations and to the justification for sighting at what is considered to be a last resort location,
- (iv) the proposed location in an existing and established quarry setting peripheral to the village and considerably setback from residential properties and community facilities therein while meeting the aim of providing enhanced broadband and wireless signal coverage in the area,
- (v) the availability of the proposed structure for colocation in the future and accordance with national policy and
- (vi) the location of the site outside a landscape area or viewshed designated for protection in the Development Plan maps, outside the curtilage of a protected structure, set back from the Lixnaw Canal network and positioning north of the line of view between Old Court and Monument (now demolished),

it is considered that subject to compliance with the conditions set out below the proposed development would not unduly detract from the landscape character of the area or seriously injure the visual or residential amenities of the area, would be acceptable in terms of traffic safety and would not contravene materially the Kerry County Development Plan 2022-2028 and would therefore be in accordance with the proper planning and sustainable development of the area.

In reaching its decision the Board is satisfied that in accordance with the provisions of section 37 (2) (b) the proposed development is of strategic importance in the context of the county and that objectives LW BE-03 and LW BE-04 as cited in the reason for refusal are not clearly set out in terms of their particular spatial relevance to the site and the interpretation by the planning authority in this case conflicts with the planned development for Lixnaw in terms of its settlement strategy and provision for enhanced digital connectivity as provided for in the Kerry County Development Plan 2022-2028.

Conditions

1. the proposed development shall be carried out and completed in accordance with the plans and particulars launched with the application as amended by the further plans in particulars received by the planning authority on the 15th of March 2022 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 that the planning authority prior to commencement of development and the proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. Prior to commencement of development details of the proposed colour scheme for the telecommunication structure and ancillary structures shall be submitted to and agreed in writing with the planning authority.

Reason in the interest of the visual immunities of the area.

3. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the cartilage of the site without a prior grant of planning permission.

Reason in the interest of the visual amenities of the area.

4. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

Reason in the interest of public health

5. The developer shall allow subject to reasonable terms other licensed mobile telecommunications operators to co-locate their antennae onto the subject structure.

Reason: in order to avoid the perforation of telecommunication structures in the interest of visual amenity

6.
 - (a) in the event of the proposed structure becoming obsolete and being beacon commissioned the developer shall at its own expense remove the mask antennae and ancillary structures and equipment.
 - (b) The site should be reinstated upon the removal of the telecommunication structure and ancillary structures. Details of the reinstatement shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason in the interest of orderly development.

Suzanne Kehely

Senior Planning Inspector.

29th February, 2024.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary			
Development Address			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No x	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____