



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314689-22

<b>Development</b>	Replace 12m wooden pole with a 21m high telecommunications monopole together with associated equipment, enclosed by security fencing
<b>Location</b>	Eir Exchange, Connacht Road, Scariff, Co Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	211320
<b>Applicant(s)</b>	Eircom Ltd (t/a Eir)
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Eircom Ltd (t/a Eir)
<b>Observer(s)</b>	Peirce and Sarah Madden Brendan O'Dwyer Terence Madden
<b>Date of Site Inspection</b>	30 <sup>th</sup> of December 2022
<b>Inspector</b>	Adrian Ormsby

## 1.0 Site Location and Description

- 1.1. The site is located on the Connacht Road (L4028) just off the R352 Regional Road linking Scariff to Mountshannon. The site is an existing Eir facility/communications exchange to the north east of Scariff. The site includes an existing single storey building with two existing monopole telecommunication structures located within the site, one to the rear and north side of the building, the other to the side and east of the building.
- 1.2. The site is elevated from the public road to the south. There are existing two storey houses No. 13-16 Dergview estate located close to the northeast boundary of the site and two other houses with deep back gardens facing the site to its north west boundary.
- 1.3. The site is accessed from the public road through an existing splayed vehicular entrance with boundary walls. There is no public path on this side of the road but the road side boundary is set back from the road edge. There is a path on the opposite side of the road. The entrance to the facility is located c.35m west of the junction of the Connacht Road with the R352 Regional Road with the application site c.60m west of same.

## 2.0 Proposed Development

- 2.1. The proposal comprises off-
  - Removing a 12m existing wooden pole
  - Replacing it with a 21m monopole
  - antennae and dishes
  - and associated equipment including-
    - 1.65m high, 1.34m wide cabinet
    - 300m cable ladder and
    - 3 and 4m long gantry poles
  - 2.4m high palisade security fencing.

- 2.2. The Planning Authority sought Further Information (FI) on the 14/02/22 on the following matters-
- Proposals sought to address concerns in relation to overbearing, imposing effect when viewed from adjoining residential properties to include a reduction in height
  - Clarity sought in relation to the existing mast and its height that is to be replaced within the site boundary.
- 2.3. The applicants responded to the FI request on the 02/08/22 in which they-
- Seek to justify the development as originally proposed
  - Clarify it is the 10m existing pole within the site boundary which will be removed.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority decided to refuse permission on the 29<sup>th</sup> of August for two reasons as follows-

1. *The proposal site occupies a visually prominent site in the local streetscape/landscape, directly adjoining a designated Scenic Route. Under the provisions of Objective CDP13.7 of the Clare County Development Plan 2017-2023 (as varied) it is an objective inter alia to ensure that proposed developments are designed and located to minimize their impact and to ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.*

*It is considered that the proposed development, by virtue of its siting and scale, would dominate the eastern approach to Scariff, inherently alter the character of the town and the Scenic Route at this location and have a severe negative impact on the visual amenities of the area.*

*The proposed development would therefore be contrary to Objective CDP13.7 of the County Development Plan and would be contrary to the proper planning and sustainable development of the area.*

2. *It is an objective, under CDP8.44 of the Clare County Development Plan 2017-2023 (as varied) to facilitate the provision of telecommunications services at appropriate locations within the county having regard to the DoEHLG 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996 (as updated by PL07/12 of 2012)'*

*The said guidelines for Planning Authorities state:*

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

*Notwithstanding the location of the site within an established infrastructure compound, it is considered that the height and design of structure is excessive having regard to the location in close proximity to a number of residential properties. It is considered that the proposed development would be contrary to both CDP8.44 of the Clare County Development Plan and Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996. The proposed development would therefore seriously injure the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.*

## 4.0 Planning Authority Reports

### 4.1. Planning Reports

The planning reports (signed the 9<sup>th</sup> & 14<sup>th</sup> of February and 24<sup>th</sup> & 26<sup>th</sup> of August 2022) generally reflect the decision of the Planning Authority. The following is noted from the reports-

- The site is located on lands zoned 'Utilities'.
- There is no real likelihood of significant effects on the environment and the need for EIA can be excluded at preliminary examination.
- The proposal would not be likely to have a significant effect individually or in combination with other plans and projects on European Sites.
- There are no protected structures or recorded monuments in the vicinity of the site.
- Based on the FI response and inaccuracies in the public notices which are considered misleading concerns are highlighted in relation to the validity of the application.
- The applicants contention the site is located approx. 60m from the scenic route is incorrect. The Scenic Route passes along Connacht Road directly alongside the application site.
- Existing trees and hedgerow on the site boundary are estimated to be 5-6m high and will do little to screen the proposed 21m mast.
- The applicants have not revised the height of the mast at FI stage.
- The mast will be located 15m from residential properties. The applicants have not addressed these concerns of the Planning Authority.

### 4.2. Other Technical Reports

- None on file

#### 4.3. Prescribed Bodies

- Irish Water-
  - 23/12/21- no objection
- IAA-
  - 17/01/22- No requirement for obstacle lighting

#### 4.4. Third Party Observations

- There were **ten** third party submissions and the main issues can generally be summarised as follows-
  - Negative impacts on existing residential amenity
  - Negative visual impact
  - Alternative more suitable sites available
  - Health and safety impacts
  - Stability of the structure
  - Omissions, inaccurate and inconsistent details and drawings
  - Proximity to an ACA and Protected Structures
  - Contravenes a number of sections of the County Development Plan
  - 1996 Telecommunications Guidelines are out of date
  - Proximity of a Scariff National School
- There was one representation received from Michael McNamara T.D. seeking to ensure the council engage with the submissions and concerns of the wider public.

#### 5.0 Planning History

- None recent/relevant

## 6.0 Policy Context

### 6.1. National Policy and Guidelines

#### 6.1.1. National Planning Framework

National Policy Objective 48 states-

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

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

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

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

Section 6.2 deals with Digital Connectivity and states-

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

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

RPO 137 deals with Mobile Infrastructure and states-

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

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

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

- planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds. These are regulated by other codes and such matters should not be additionally regulated by the planning process.
- An authority should indicate any locations where telecommunications installations would not be favoured or where special conditions would apply. Such locations might include high amenity lands or sites beside schools (Section 3.2).
- Along major roads or tourist routes, *'views of the mast may be intermittent and incidental, in that for the most of the time viewers may not be facing the mast.'* (Section 4.3).
- In relation to smaller towns such as Scariff section 4.3 of the Guidelines specifically states-
  - *'Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation.'*
- Following on from the above section 4.3 also states-
  - *Only as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure.'*



- The sharing of installations and clustering of such facilities are encouraged as co-location will reduce the visual impact on the landscape (Section 4.5). Developers will have to demonstrate that they have made a reasonable effort to share the use of the same structure or building with competing operators

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

This Circular Letter revises elements of the 1996 Guidelines including-

- attaching a condition to a permission for a telecommunication mast and antennae which limit their life to a set temporary period should cease, except in exceptional circumstances.
- planning authorities should also cease specifying separation distance for such developments when making Development Plans as they can inadvertently have a major impact on the roll-out of viable and effective telecommunications network.
- planning authorities should be primarily concerned with the appropriate location and design of telecommunication structures and do not have the competence for health and safety matters in respect of telecommunication infrastructure. These are regulated by other codes and such matters should not be additionally regulated in the planning process.
- Development Contribution Schemes must include waivers for broadband infrastructure and these waivers are intended to be applied consistently across all local authority areas.

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

6.2.1. The site is governed by the policies and provisions contained in the Clare County Development Plan (CDP) 2017 to 2023 as varied.

6.2.2. Table 2.1 of the Plan sets out the Settlement Hierarchy for County Clare. Scarriff is identified as a 'Service Town' in the Clare County Council Development Plan's Killaloe Municipal District (Volume 3C). The town settlement boundary is identified in the Scarriff/Tuamgraney Settlement Plan maps which also identifies the subject application site as zoned UT2 'Utilities'.

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

- CDP8.44 Telecommunications Infrastructure, It is an objective of the Development Plan:

*‘To facilitate the provision of telecommunications services at appropriate locations within the County having regard to the DoEHLG*

*‘Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996 (as updated by PL07/12 of 2012).’*

6.2.4. Other relevant sections and/or objectives include-

- CDP10.6 Broadband

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

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

*‘It is an objective of Clare County Council:*

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

- Section 19.4 of the County Development Plan (CDP) deals with ‘Nature of Zonings’ for the County and in relation to ‘Utilities/Infrastructure Safeguard’ it states-

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

6.2.5. The site is located outside of and c.95m east of the Scariff Architectural Conservation Area (ACA). This ACA is described in Appendix 4 of the CDP as-

*‘The town existed by 1780 when the Grand Jury Map of Clare was being surveyed. The present town comprises one main street rising from the bridge over the River Graney to a triangular town “square”. The houses are*

*predominantly two storey gabled structures, built of local rubble sandstone with a lime render finish and sash windows. Many are still roofed with local Killaloe/Portroe slate and most still contain their one-over-one late 19th century wooden sliding sash windows..'*

6.2.6. Scenic Routes- CDP13.7-

*Development Plan Objective: Scenic Routes*

*It is an objective of Clare County Council:*

- a To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community;*
- b To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact;*
- c. To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.*

The R352 Regional Road links Scariff to Mountshannon. The R352 from Mountshannon through Scariff and onto Tuamgraney appears to be identified as a scenic route in Map C Landscape Designation of the County Development Plan. This is also shown in map 13A of the Landscape Designations of the main CDP document. Appendix 5 of the CDP identifies Scenic Route 28 as the R463 from Tuamgraney to Mountshannon. I note the R463 is the regional road from Tuamgraney to Ogonnelloe.

6.2.7. Scariff is not located within a Heritage Landscape as identified in Map 2A Core Strategy

**6.3. Natural Heritage Designations**

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

- c. 1.5km north west of the Lough Derg (Shannon) SPA 004058

## **6.4. EIA Screening**

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

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

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

- The grounds are provided under section 37 (2) b (iii) of the Planning and Development Act 2000 as amended i.e. permission should be granted having regard to regional spatial and economic strategy for the area, section 28 guidelines, section 29 policy directives, local authority statutory obligations and any relevant policy of the Government, Minister or any Minister of the Government.
- The two refusal reasons are intertwined and a collective response is submitted.
- The proposal provides critical infrastructure and services for Scariff and the immediate area. It is a requirement for the service to be in close proximity to demand.
- The proposal essentially upgrades an existing communications exchange.
- Line of sight is necessary to connect the cell to the rest of the network.
- Existing Irish network providers are switching off 3G services in 2023-24. These changes will especially impact areas of poor 4G and 5G coverage such as Scariff.

- Statistics are provided for the Irish market showing how demand within mobile and broadband networks is continuing to grow at an exponential pace. 4G is the most important with 5G growing rapidly. Existing infrastructure does not have the capacity to meet this demand and as a result the network must be expanded and upgraded to provide the quality of service required.
- The applicant details Eircom Limited and Tetra Ireland use the site at present.
- The exchange and proposed development fall within the 'Utilities /Infrastructure Safeguard' Zoning.
- Due to the topography of the village and surrounding area, it is necessary for a telecommunications structure to be able to reach above areas to provide signal propagation and to achieve line of sight to other masts to link into the network.
- The exchange is ideally located on the northern and higher elevation of the town. At 21 metres in height 4G and 5G coverage for the town and catchment area beyond can be achieved.
- The exchange provides important and established utilities that Eir, Eir-mobile and Tetra can take advantage of.
- An existing 27m mast c. 980m to the southwest of the site has been discounted for co-location purposes as more equipment would not meet technical objectives for the target area.
- The existing pole on the site is too low and structurally incapable to allow for a Tetra upgrade and the required 4G and 5G equipment.
- The ComReg coverage plots show that Vodafone does not provide 5G services for the area stated. The existing lattice structure is too far away with ground level too low to provide quality 4G and 5G services for the elevated northern side and more populated part of Scariff and the area beyond. A weakness in coverage to the north of the site has been identified by Eir for Scariff and the surrounding network. An exert map is shown in the appeal.
- Good outdoor coverage does not equate to good indoor coverage to meet the quality requirements of Eir or Eir mobile.

- It is submitted the proposal does not contravene the Telecommunication Guidelines 1996. Section 4.3 details that some masts will remain visible despite measures taken to minimise visual impact.
- The guidelines were written over 25 years ago. The latest technologies requires sites closer to the source of demand which may not have been considered in the guidelines.
- There is limited flexibility to secure the necessary coverage for Scariff. The site is an ideal location.
- The proposal does not conflict with guidance on fragile, sensitive landscapes or other designations.
- It is acknowledged the structure will remain noticeable at different locations along a scenic route. It does not intrude overly on the general view of prospect. Due to the topography it is considered the mast will not be intrusive.
- Being close to residential areas does not justify a refusal.
- Since the Guidelines were published it is now necessary for free standing masts to be located within or in the immediate surrounds of smaller towns or villages to provide the services required.
- The structure is designed to support more than one operator.
- The Applicants recognise the proposed height of 21m is not the minimum height required to achieve coverage. In an effort to meet the Guidelines a lower structure at 18 metres can be installed instead but will result in poorer quality coverage for the wider area and will provide a reduction for other operators to gain representation on it.
- In terms of the R352 Scenic Route it is submitted the proposed development will create a visual impact at different locations over a wider area.
- Photomontages are submitted with the appeal and these demonstrate the reduced height of 18m. Including the three Tetra antennas the total height will be 20.8m. Revised drawings are submitted. Photomontages are taken directly looking at the structure where in reality the focus of reference will be the path of progress and not the structure. Photomontage 4 is highlighted as the

greatest visual impact but overall it is considered the proposal will not negatively impact the town.

- Third party objections are considered and addressed.
- Structures of similar height and design are not uncommon for established utilities properties in village settings with two ABP decisions cited 309019 and 309539.
- A letter of support from Eir mobile accompanies the appeal.

## 7.2. **Planning Authority Response**

The Planning Authority's response to the grounds of appeal received by email and letter on the 17/10/22 can be summarised as follows-

- The Planning Authority refers to the considerations set out in the Planners Report and requests the Board upholds their decision.
- They do not propose making a contingency submission.

## 7.3. **Observations**

Three observations were received from-

- Peirce and Sarah Madden
- Brendan O'Dwyer
- Terence Madden

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

- Residential amenity impacts including depreciating the value of homes
- Visual impact of the development on an important scenic and tourist route
- Suitability of the site for such a development

## 8.0 Assessment

### 8.1. Introduction

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

- Refusal Reason 1- Scenic Route and Visual Impact
- Refusal Reason 2- Compliance with National Guidance
- Other Concerns
- Appropriate Assessment.

### 8.2. Refusal Reason 1- Scenic Route and Visual Impact

8.2.1. The Planning Authority's first refusal reason details the site occupies a visually prominent site in the local streetscape/landscape, directly adjoining a designated Scenic Route. They consider the proposed 21m high mast at this location would dominate the eastern approach to Scariff, inherently alter the character of the town and the Scenic Route at this location and have a severe negative impact on visual amenities of the area. They consider the proposal contrary to Objective CDP13.7 of the County Development Plan (CDP).

8.2.2. Objective CDP13.7 refers to Scenic Routes and seeks to-

- *To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community;*
- *To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact;*
- *To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.*

8.2.3. Having considered the contents of the CDP and Planning Reports it appears the scenic route in question is the R352 Regional Road which links Mountshannon



through Scariff and onto Tuamgraney as per Map C Landscape Designation of the CDP. This is also shown in map 13A of the Landscape Designations of the main CDP document. Appendix 5 of the CDP identifies Scenic Route 28 as the R463 from Tuamgraney to Mountshannon. The R463 is the regional road from Tuamgraney to Ogonnelloe.

- 8.2.4. I note the comments in the Planning Report which details the 'Scenic Route' passes along Connacht Road directly alongside the application site. A local sign on Connacht Road identifies it as a local road i.e. L-4028 and accordingly the site and utility exchange is not on the R352. Having assessed the CDP mapping as detailed above it is difficult to say with certainty if the L-4028 and existing Eir exchange facility is actually located on the Scenic Route'.
- 8.2.5. Notwithstanding this, the application site is located c.60m from the R352 which clearly is designated a scenic route in the CDP. In summary Objective CDP13.7 seeks to protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community. It also requires proposals to consider their effects on views from the public road towards scenic features and to ensure that appropriate standards of location and siting etc. are achieved.
- 8.2.6. The CDP is relatively silent on what the 'sensitive areas' or 'scenic features' are in the context of this scenic route. I have walked the general area of the site along Connacht Road and the wider R352. I also drove further east and south along the R352 to and from the site. In this regard I do not consider views towards or from the general area of the site to be overly 'sensitive' or of 'scenic features'. The site is not located within or adjoining the Scariff ACA and would not be unreasonably visible from same i.e. at best it would be intermittently visible. The proposal is sited and located on appropriately zoned lands. It is a typical type of structure for such a proposal in such settings. Furthermore, I consider the development as proposed would provide benefit to rural communities in the area as required by objective CDP13.7.
- 8.2.7. I accept a 21m high mast at this location would be visible from certain points along the eastern approach to Scariff with the impact more evident the closer one gets to the site assuming they look directly towards it. However such views would be

intermittent in most cases and do not compromise views to 'sensitive' or scenic features'. The proposal would not dominate the eastern approach, would not inherently alter the character of the town or the Scenic Route at this location and would not have a severe negative impact on visual amenities of the area. The proposed development would not be contrary to Objective CDP13.7 of the County Development Plan (CDP) and accordingly I recommend the Board set aside the Planning Authority's first refusal reason.

### **8.3. Refusal Reason 2- Compliance with National Guidance**

- 8.3.1. The Planning Authority's second refusal reason refers to objective CDP8.44 of the County Plan which seeks to facilitate the proposed developments at appropriate locations and in accordance with the 1996 Telecommunications Antennae and Support Structures Guidelines for Planning Authorities as updated by Circular PL07/12. The reason also quotes one of two 'last resorts' tests for such developments listed in the Guidelines in relation to locating such masts in proximity to a number of residential properties. The reason contends the height and design of the structure is excessive.
- 8.3.2. The Applicant contends that the 1996 Guidelines and Circular Letter PL07/12 were written at a time when the rate of growth within the communications business was underestimated. The Applicants seek to justify the proposed development by reference to changing service requirements including the likely redundancy of 3G provision and the increased demand for 4G and 5G services. They argue the proposed height and existing topography of the general area will improve both indoor and outdoor coverage as well as improving overall coverage north of Scariff. Neither the Planning Authority or observers question the need for the proposal and accordingly I consider the need for the improved services at this location is justified.
- 8.3.3. The applicants do however indicate that they would be willing to accept an 18m high structure with ancillary antennae and dishes. They argue this will enable the necessary coverage for the town but will reduce the quality of service in the wider area and remove the ability for co-location.
- 8.3.4. Scariff is identified as a 'Service Town' in the CDP i.e. the third tier of the Settlement Hierarchy and below both Ennis and Shannon in the County. In this context I

consider Scariff to be a 'Smaller Town' and accordingly it is the first of the two 'last resort tests' set out in the 1996 guidelines that should be considered.

- 8.3.5. This test requires masts to be considered in 'smaller towns' only where it is necessary. I would share the Applicant's contention that it is now necessary for these structures to be located closer to service demands to facilitate changing needs of consumers. The need and requirement for improved mobile and data connectivity in both rural and urban areas is supported by RPO 137 of the RSES which seeks to strengthen the continued delivery of high-speed, high-capacity digital and mobile infrastructure investment in the region.
- 8.3.6. The Guidelines details that existing sites already developed for utilities should therefore be considered and masts and antennae should be designed and adapted for the specific location. They also require the support structure to be kept to the minimum height consistent with 'effective operation'.
- 8.3.7. The proposal is located within an existing utility facility and is zoned accordingly. The applicants have indicated the development could be considered at 18 metres but to do so would not provide the necessary cover or quality of service for the wider area. Or in other words 18m would not be consistent with 'effective operation'. I am satisfied the proposal for 21m height is acceptable in the context of the Guideline's and the RSES and would not be contrary to Objective CDP8.44 of the County Development Plan. Accordingly I recommend the Board set aside the Planning Authority's second refusal reason.

#### 8.4. **Other Concerns**

- 8.4.1. Observers have also raised concerns in respect of proximity of the proposal to residential property, overshadowing, the devaluation of property in the area and the availability of more suitable sites in the area.
- I acknowledge concerns of residents in the area in relation to the proximity of the proposal to their homes. I note the Development Plan and Ministerial Guidelines do not specify minimum separation distances from such developments. I also note Circular PL07/12 states that such separation distances could "inadvertently have a major impact on the roll out of a viable and effective telecommunications network". Having considered the siting of

the proposal on existing utility zoned lands within the settlement boundary and the separation distances to homes in the area, I do not consider the mast to be excessively obtrusive or overbearing.

- The proposed structure is a typical monopole telecommunications structure with ancillary dishes and antennae. It will not create significant overshadowing or contribute to significant reduction of daylight/sunlight to private amenity spaces or the interior of existing homes in the area.
- The observers have not submitted any evidence to support a possible devaluation of property in the area as a result of a replacement albeit higher telecommunications structure at this location. I do not consider the proposed development would seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity. The provision of improved mobile and broadband services in the area could be argued to have a positive benefit upon the valuation of some properties in the area where mobile and data connectivity could otherwise be difficult to provide.
- I acknowledge that there may be alternative sites in the wider area that a development such as that proposed could be located. However the Applicants have applied for the development at this site, which is an existing utility site and is zoned accordingly. Based on the information submitted with the application, I am satisfied that there is a need for improved telecommunications in the general wider area and the location of the development as proposed has been adequately justified to provide improved coverage that will benefit the wider area. While alternative sites in the area could provide similar or even further coverage improvements, I see no reason to refuse the proposed mast on this basis alone.

8.4.2. I note the discrepancy in the public notices relating to the existing 12m mast to be removed and the clarity provided by the applicant at FI stage indicating it is a 10 m mast within the site that is to be removed. The mast to be removed is identified within the red line and it is clear to me this is the mast that is proposed to be replaced. I do not consider the height discrepancy has a material impact for the purpose of this assessment.

## **8.5. Appropriate Assessment**

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

## **9.0 Recommendation**

- 9.1. I recommend that permission is granted subject to the following conditions

## **10.0 Reasons and Considerations**

- 10.1. Having regard to the provisions of the National Planning Framework, the Clare County Development Plan 2017-2023, the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996 and associated Circular Letter PL07/12, the existing use of the site, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area i.e. identified ‘sensitive’ and ‘scenic features’ visible from the ‘Scenic Route’ along the R352 Regional Road. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 02<sup>nd</sup> day of August, 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 with the planning authority prior to commencement of development and the 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 telecommunications structure and ancillary structures shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of the visual amenities of the area.

3. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage 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. (a) In the event of the proposed structure becoming obsolete and being decommissioned, the developers shall, at their own expense, remove the mast, antenna and ancillary structures and equipment.  
  
(b) The site shall 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 the commencement of development.

Reason: In the interest of orderly development.

6. 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.

Reason: To avoid a multiplicity of telecommunications structures in the area, in the interest of visual amenity, and proper planning and sustainable development.

7. Site development and building works shall be carried out only between the hours of 0800 to 1800 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.

---

Adrian Ormsby

Planning Inspector

19<sup>th</sup> Of January 2023