



An
Bord
Pleanála

Inspector's Report ABP315706-23

Development	21 metre high telecommunications structure and associated site works.
Location	Denby Steel Products, Lislaughtin, Ballylongford, County Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	221157.
Applicant	Vantage Towers Ltd.
Type of Application	Planning permission.
Planning Authority Decision	Refusal of planning permission.
Type of Appeal	Third Party
Appellant	Vantage Towers Ltd.
Observer(s)	None.
Date of Site Inspection	2 nd May 2023.
Inspector	Derek Daly.

1.0 Site Location and Description

1.1. The proposed site is located in the townland of Lislaughton approximately 0.8 kilometres north of the village of Ballylongford in the north of County Kerry in close proximity to Ballylongford Creek an inlet off the Shannon Estuary. On the appeal site is a two storied industrial building used for metal fabrication, a hardstanding area with scrap metal areas visible on the site. There is also a telecommunication structure on the site located on the side (north) of the industrial building. The area of the site is stated as 0.0168 hectares.

A public road defines the sites eastern boundary and the remaining boundaries adjoin agricultural lands. The road side boundary comprises a series of concrete pillars with metal fencing between the pillars. The remaining boundaries are defined by hedgerows with the site very visible when viewed from the south. The northern boundary is more mature providing better screening of the site. The site and area are flat and low lying. There are a number of dwellings located in the immediate area including a vacant dwelling immediately to the north of the appeal site.

2.0 Proposed Development

2.1. The proposed development is for a 21 metre high lattice telecommunication support structure together with antennae and associated support equipment including cabinets, security fencing comprising a 2.4 metre high palisade fence and associated site works which including a hardstanding area. It is proposed to accommodate the existing telecommunication operator and additional other operators on the site. Cabins/cabinets shown on the drawings are exempted development.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to refuse the development. One reason was stated which refers to the site's location in a rural area designated as visually

sensitive in the current Kerry County Development Plan 2022-2028, the relatively open and exposed nature of the site, that the proposal would not integrate onto the landscape and would contravene objectives KCDP 11-77, KCDP 11-78 and KCDP 14-82 of the Kerry County Development Plan 2022-2028.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 10th January 2023 refers to;

- Provisions of the Kerry County Development Plan in particular sections 14.9 relating to digital connectivity, section 41.6.2 landscape sensitivity, section 11.6.3 landscape sensitivity and that the site is within a designated sensitive area, section 11.6.4 development in designated areas, volume 6 of the plan relating to development management standards in particular section 1.14.1 on telecommunications.
- EIA preliminary assessment.
- An assessment based on the provisions of the Kerry County Development Plan.
- A refusal is recommended based on visual impact citing objective KCDP 14-82.
- Reference is made that every effort should be made to locate in non-scenic areas and given the location of the site in a designated area refusal is recommended.

3.2.2. Other Technical Reports

The Environmental Assessment Unit (EAU) report dated 8th December 2022 refers to site located within c.50 metres of the of the Lower Shannon SAC and the River Fergus Estuaries SPA and that an Appropriate Assessment Screening Report be prepared.

4.0 Planning History

None relevant.

5.0 Policy and Context

5.1. Development Plan

The relevant plan is the Kerry County Development Plan 2022-2028 (CDP).

Chapter 11 relates to Environment and section 11.6 specifically to Landscape. In section 11.6.2 on Landscape Sensitivity reference is made to “*the outstanding landscapes of Kerry are one of the County’s defining features and one of its most important economic assets. There are significant areas of landscape importance, which are important not only for their intrinsic value as places of natural beauty but also because they provide a real asset for residents and visitors alike in terms of recreation, tourism and other uses*”. Objectives reflecting this are outlined in;

KCDP 11-77 *Protect the landscapes of the County as a major economic asset and an invaluable amenity which contributes to the quality of people’s lives* and KCDP 11-78 *Protect the landscapes of the County by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area. Any development which could unduly impact upon such landscapes will not be permitted.*

Section 11.6.3 refers to Landscape Designations and two landscape designations for the county Visually Sensitive Areas and Rural General. The appeal site is located within a Visually Sensitive Area. In general terms applying to all landscapes, it is stated that that development in all areas be integrated into its surroundings in order to minimise the effect on the landscape and to maximise the potential for development. Specific to Visually Sensitive Areas section 11.6.3.1 reference is made to these areas comprising the outstanding landscapes throughout the County which are sensitive to alteration, that these areas are particularly sensitive to development. In these areas and development will only be considered subject to satisfactory integration into the landscape and compliance with the proper planning and sustainable development of the area and it is imperative in order to maintain the natural beauty and character of the County, that these areas be protected.

Chapter 14 relates to Connectivity and section 14.9 specifically refers to Digital Connectivity. The CDP refers to *the importance of a modern, efficient*

telecommunications system for the future development of the County cannot be overstated and constitutes a vital element of the County's infrastructure. T

It is the policy of the Council to:

- Promote the development of Smart County and Smart Towns as well as Smart Villages.
- Support the co-ordinated and focused sustainable development and extension of broadband infrastructure throughout the County at appropriate locations to ensure economic competitiveness for the enterprise and commercial sectors and in enabling more flexible work practices e.g., remote working in hubs in towns and villages.
- Facilitate the sustainable development of a modern efficient telecommunications network serving the County.
- Achieve a balance between facilitating the sustainable provision of telecommunications infrastructure in the interests of social and economic progress and sustaining residential amenity and environmental quality.

Section 14.9.1 refers to Telecommunications & Broadband and that efficient telecommunications and broadband are central to the development of a knowledge-based economy throughout the Country; Kerry County Council will have regard to the 'Telecommunications Antennae and Support Structures Guidelines for Planning Authorities' (DoECLG, 1996) and Circular Letter PL07/12 and that the Council aims to support the sustainable development of mast infrastructure at appropriate locations which facilitates backhaul in the peninsula areas, and Broadband services to areas of the County with no Broadband service and with poor Broadband service.

Objectives KCDP 14-71 to KCDP 14-80 broadly follow the provisions of the plan as set out in section 14.9.1. Objectives KCDP 14.71 to 14.78 are objectives which are broadly supportive of the provision of infrastructure. Objective KCDP 14.79 does refer to "*achieve a balance between facilitating the provision of telecommunication infrastructure in the interests of social and economic progress and sustaining residential amenity and environmental quality*" and KCDP 14-80 refers to "*ensure that the location and provision of telecommunication infrastructure should minimise*

and/or mitigate any adverse impacts on communities, public rights of way and the natural environment”.

It is important to note that in the planning report KCDP 14.79 and KCDP 14.80 are referred to as KCDP 14.81 and KCDP 14.82 and that KCDP 14.82 is specifically referred to in the reason for refusal. At the time of drafting the decision by the Planning Authority KCDP 14.81 and KCDP 14.82 were the operative objectives as numbered in the CDP but the CDP has been subsequently amended following ministerial consultation and two objectives were removed and the numbering of the objectives altered as a result.

Volume 6 of the plan relating to development management standards and section 1.14.1 refers specifically to telecommunications. The provisions refer to recognising the importance of the need for high quality communications and information technology networks in assuring the competitiveness of the County’s economy and its role in supporting regional and national development and that in evaluating applications for telecommunications installations, the Council will have regard to “Telecommunications Antennae & Support Structures Guidelines for Planning Authorities” (1996), and Department Circular PSSP 07/12.

Criteria are outlined in assessing

The following shall be taken into a planning application including

- Co-location of such facilities on the same mast or cabinets by different operators is favoured to discourage a proliferation;
- Every effort shall be made to locate telecommunication masts in non-scenic areas.
- The preferred location for telecommunication antennae is in industrial estates or areas zoned for industrial use or in areas already developed for utilities.
- Every effort should be made to located new telecommunication masts in existing compounds or adjacent to existing masts.
- When locating on greenfield sites the mast should be away from existing residential properties.

- The preferred location for masts and antennae is in industrial estates, attached to industrial buildings or other commercial buildings.

5.2. National Planning Guidelines

- 5.2.1. Telecommunications Antennae and Support Structures; Guidelines for Planning Authorities, 1996. Section 4.3 includes; Only as a last resort should freestanding masts be located within or in 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 antennae should be designed and adapted for the specific location.
- 5.2.2. Circular Letter PL 07/12, DoECLG 2012 This includes further advice on the issue of health and safety and reiterates that this is regulated by other codes and is not a matter for the planning process.

5.3. Natural Heritage Designations

- 5.3.1. The River Shannon and River Fergus Estuaries SPA (004077) and Lower Shannon (002165) SAC is located approximately 100 metres to the west of the appeal site.

5.4. EIA Screening

- 5.4.1. The proposed development does not fall within the scope of any of the Classes of development for the purposes of EIA.

6.0 The Appeal

6.1. Grounds of Appeal

The main grounds of appeal can be summarised as follows:

- The proposed development would not by reason of location, height and scale seriously injure the visual amenities of the area or interfere with the character of the landscape.
- The site has been chosen to provide excellent coverage and a reliable level of indoor service to all areas targeted for service improvement.

- Dishes must be provided at a height to ensure service and connection and the proposed development will by nature of scale mitigate against the need for further masts in the area.
- The need for the proposal is outlined based current clear deficiency in the area.
- Alternative sites are outlined and reasons given for discounting these sites.
- Reference is made to the provisions of the current Kerry County Development Plan 2022-2028 in particular sections 14.9.1, 11.6.3, 11.6.4, the management guidelines outlined in section 1.14.1 of volume 6, reference is also made to national guidance.
- It is acknowledged that the lattice structure will be visible but will in part be screened by the existing building on the site and is situated away from the village.
- The development will be located on the site of an old steelworks commercial business and the proposal will not appear remarkable in its surroundings and the building will screen the lower 5 metres of the lattice structure.
- The absence of an alternative structure in the Ballylongford area is stressed and reference is made to the 1996 national guidance and in particular to section 4.3 that in most cases the applicant will have limited flexibility as regards location.
- The proposed development will not have a negative impact on the visual amenities of the area.
- The importance of protecting the landscape is acknowledged against adverse or visually intrusive objects but landscapes constantly evolve and telecommunication structures are essential to such evolution and in some instances, there exists limited flexibility regarding location.
- The applicant is prepared to offer a reduced monopole height of 18 metres in the interests of visual amenity.
- A number of photomontages are submitted to indicate absence of visual impact.

6.2. **Planning Authority Response**

No response received.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the planning authority's reason for refusal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The issues are addressed under the following headings:

- Need for the development.
- Visual Impact
- Appropriate Assessment

7.2. **Need for the development.**

7.2.1. The appellant has stated the need for the upgrading of the telecommunications network, that the existing service in the area is deficient and with future discontinuance of 3G and 4G there is a need to make provision for an improved service provision in the area. On the basis of the information submitted the need for an improved telecommunications network is accepted and the planning authority would also recognise this. It is also noted the applicant/appellant is making provision for sharing the proposed development and the principle of the development is acceptable.

7.3. **Visual Impact.**

7.3.1. The primary issue which arises in relation to this appeal is one of visual impact. It is well recognised that placing infrastructure of this nature in or in proximity to small towns and villages is challenging and this is reflected in the advice contained in Section 4.3 of the Telecommunications Antennae and Support Structures Guidelines (the Guidelines). It is also recognised in national and local policy that there is a need for the provision of telecommunications infrastructure to meet future demand and to address current deficiencies

7.3.2. It is also recognised that in relation to providing this infrastructure there are in scenic and visually vulnerable locations issues in relation to providing this infrastructure

arise and as indicated in the guidelines there will be limited flexibility in relation to such locations. However, the advice also concedes that it may be necessary and, in that event, existing utility sites should be considered and specific design solutions should be employed.

- 7.3.3. The current Kerry County Development Plan also recognises the need to provide telecommunications infrastructure to address current deficiencies in the network and to meet future needs. It also has identified in the plan a designation of Visually Sensitive Areas which are sensitive to alteration, that these areas are particularly sensitive to development. In these areas, development will only be considered subject to satisfactory integration into the landscape and compliance with the proper planning and sustainable development of the area, it is imperative in order to maintain the natural beauty and character of the County, that these areas be protected and also to ensure that the location and provision of telecommunication infrastructure should minimise and/or mitigate any adverse impacts on communities, public rights of way and the natural environment.
- 7.3.4. The development management guidelines of the CDP also states a position of where possible very effort shall be made to locate telecommunication masts in non-scenic areas, that the preferred location for telecommunication antennae is in industrial estates or areas zoned for industrial use or in areas already developed for utilities.
- 7.3.5. In relation to the appeal site the site is located within a designated Visually Sensitive Area. The Visually Sensitive Area designation extends north of the village of Ballylongford on both sides of Ballylongford Creek and westwards along the coastline of the Shannon Estuary. The lands to the south, west and east of the village are not within the Visually Sensitive Area designation.
- 7.3.6. It is also recognised that identifying a suitable site which can provide a reliable level of service can be difficult and the current use of the site as industrial would lend itself to consideration within the context of the CDP and national guidance and this position is presented in the grounds of appeal.
- 7.3.7. The grounds of appeal acknowledge that the lattice structure will be visible but will in part be screened by the existing old steelworks commercial business building on the site and that it is situated away from the village. It is also contended that the proposed development will not have a negative impact on the visual amenities of the

area. In relation to the issue of visual impact the grounds also make reference to the importance of protecting the landscape against adverse or visually intrusive objects but that landscapes constantly evolve and telecommunication structures are essential to such evolution and in some instances, there exists limited flexibility regarding location. It is also noted that the applicant has stated and is prepared to offer a reduced monopole height of 18 metres in the interests of visual amenity.

- 7.3.8. In relation to visual impact the visual impact of a mast on the appeal site would be limited in particular when viewed from the north. It is also only visible from a southerly direction travelling from the village along the road in close proximity to the site. The main visual impact arises on the road leading westwards out of the village where there are views northwards over Ballylongford Creek which are a consideration in designating the area as visually sensitive. The existing building on the appeal site is readily visible but the low overall height allows for a level of integration into the landscape.
- 7.3.9. A 21 metre high lattice structure would in this context, I consider, would be visually prominent when viewed from this location and that the stated reason for refusal that the proposed development is contrary to stated objectives KCDP 11-77, KCDP 11.78 and KCDP 14-80 which state the intention to protect the landscape is therefore reasonable.
- 7.3.10. It is noted that in the grounds of appeal the appellant is prepared to offer a reduced monopole height of 18 metres in the interests of visual amenity. My view on this would be that the reduction in height and altering from a lattice structure to a monopole would certainly achieve a level of reduction of visual impact. No details however of any proposed monopole and the scale of any equipment proposed to be attached to the monopole are submitted in support of this offer of reduction to enable a comprehensive assessment of visual impact on the general area including the designated visually sensitive area.
- 7.3.11. While noting the CDP provision that the preferred location for telecommunication antennae is in industrial estates or areas zoned for industrial use or in areas already developed for utilities and the site is located on an industrial site the CDP also does state that every effort shall be made to locate telecommunication masts in non-scenic areas. The onus therefore is to present sufficient grounds for any proposal in

a scenic area to indicate that visual impact to the scenic amenities of the area are at the minimum possible. The proposal for a 21 metres high lattice structure does not meet this. An alternative proposal may do so but it would require a detailed assessment and evaluation.

7.4. Appropriate Assessment

- 7.4.1. The River Shannon and River Fergus Estuaries SPA (004077) and Lower Shannon (002165) SAC is located approx. 100 metres to the west. Both Natura sites are extensive in area with a wide range of Qualifying Interests. There are no known and identifiable hydrological links to the protected sites.
- 7.4.2. Given the scale, nature and extent of the development, the lack of a hydrological connection and the nature and current use of the site on brownfield lands, it is considered that no appropriate assessment issues are likely to arise. It is considered that the proposed development would not be likely to have significant effects, individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that the proposed development be refused.

9.0 Reasons and Considerations

- 9.1.1. Having regard to
- a) the site's location in an area designated as Visually Sensitive in the Kerry County Development Plan 2022-2028;
 - b) the height, scale and location of the proposed development in a rural coastal location area that is visually scenic in character and
 - c) 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,

it is considered that the proposed development would be visually obtrusive and would seriously injure the visual amenities of the area and areas designated as visually sensitive in the Kerry County Development Plan 2022-2028 and would

therefore contravene objectives KCDP 11-77, and KCDP 11-78 and KCDP 14-80 of the Kerry County Development Plan 2022-2028 the provisions of which are considered reasonable. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Derek Daly
Planning Inspector

10th May 2023