



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317251-23

#### Development

Permission for a 24 metre high monopole support structure with 3 metre extension (overall height 27 metres above ground level) carrying telecommunications antennas, dishes and associated equipment; new ground equipment cabinets and landscaping; and 2.4 metre high perimeter fence.

#### Location

Monivea Demesne, Monivea, Athenry, Co. Galway.

#### Planning Authority

Galway County Council

#### Planning Authority Reg. Ref.

22670

#### Applicant

Monivea Rugby Football Club

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission

#### Type of Appeal

Third Party

#### Appellant(s)

Michael F. Dolan

Phil and Gerard Moore and Others

	Carmel and Liam Turley
<b>Observer</b>	Paschal & Geraldine Moyles
<b>Date of Site Inspection</b>	16 <sup>th</sup> January 2024
<b>Inspector</b>	Ian Campbell

## **1.0 Site Location and Description**

- 1.1. The appeal site is located at Monivea Rugby Football Club, on the eastern edge of Monivea. Co. Galway.
- 1.2. Monivea Rugby Football Club is accessed from the R339 via the L-71451. The appeal site has a stated area of 0.0080 Ha. (80 sqm) and is located along the northern boundary the easternmost playing pitch.
- 1.3. The appeal site, and the wider rugby club grounds, are bound to the north by a belt of tall mature evergreen trees, beyond which is Monivea Demesne. Mature trees form the eastern and southern boundaries of the wider site. The playing pitches at the rugby club grounds are floodlit. The appeal site and the wider rugby club grounds are relatively flat.
- 1.4. A number of detached dwellings are situated to the north-west and west of the appeal site. The closest dwelling is situated c. 200 metres from the appeal site/location of the proposed telecommunication structure.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises;
  - The construction/erection of a 24 metre high telecommunication structure (monopole structure), with 3 metre high extension (overall height of structure is 27 metres above ground level) carrying telecommunications antennas, dishes and associated equipment<sup>1</sup>.
  - The proposal also includes;
    - Ground cabinets and landscaping;
    - 2.4 metre high palisade fencing enclosing the telecommunication structure and cabinets.
- 2.2. The planning application is accompanied by a cover letter outlining the technical justification for the proposal, specifically that;

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<sup>1</sup> Drawing No. Monivea RFC-DD-3-O indicates 9 no. antennae catering for 3 no. operators.

- The proposed installation is designed to accommodate multiple users (i.e. Eir, Vodafone and Three) who require a site in the area to address the quality of services experienced by each provider.
- The structure will facilitate co-location, thereby avoiding the proliferation of telecommunication sites in the area.
- There are no existing telecommunication sites in Monivea or the immediate area. The nearest existing telecommunication sites are located c. 5.6 km (Skeaghaderran), 6km (Tonroe), 6.7 km (Gortnalone), 8km (Ponabrone) from the proposed site. The operators are already co-locating on these sites and these sites and they do not provide adequate service for high speed mobile broadband around Monivea village.
- Eir requires a site in Monivea to fulfil their licencing requirements and the continued rollout of their 3G and 4G network. Existing sites are too distant to provide adequate indoor coverage and highspeed mobile broadband. (Letter from Eir attesting to this submitted, including indoor coverage maps, current and expected).
- Three require the development of the site to improve indoor coverage to the village which currently experiences sub-optimal coverage, and to provide seamless coverage along the R339, L3108, L7138 and L3107. (Letter from Three attesting to this submitted, including coverage maps, current and with proposed structure).
- Vodafone require the development of the site to address existing poor and unreliable outdoor and indoor voice and data service for customers in Monivea and on the R339 and R347 between Menlough and Athenry. (Letter<sup>2</sup> from Vodafone attesting to this submitted, including coverage maps indicating 3G and 4G coverage with and without the proposal).
- The proposed structure will comply with (International Commission for Non-Ionising Radiation Protection) ICNIRP standards, as is required.
- The proposed structure will improve network coverage for Eir, Vodafone and Three, with potential for enhanced telecommunication and broadband services in the region, and will benefit individuals, business and visitors to the area.

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<sup>2</sup> The cover letter from Vodafone refers to a structure with a height of 30 metres, this appears to be a typographical error.

- The proposed structure will meet current and future demands by carrying equipment for multiple users.
- The site has capacity to accommodate the structure. Trees and vegetation along the northern boundary of the site will provide screening for the proposal. The upper section of the proposed structure will be visible above trees and rooftops. Given the set-back from Monivea village the proposed structure will not overly intrude on views or prospects within the village (see Photomontages submitted). Whilst the proposed structure by its nature and height will have a visual impact on the landscape, the site is not elevated, is flat and benefits from natural screening. Given the characteristics of the site and surrounding area, and noting the requirement for the height of the proposed structure, the magnitude of impact is considered acceptable.
- The site has a low landscape sensitivity<sup>3</sup> and the proposed development would not adversely affect the wider landscape.
- Noting the separation distance to Protected Structures and Recorded Monuments in the area the proposed development will have minimal visual impact on same.
- The site is not within a designated area, and having regard to its scale, setting, limited extent, duration of the construction works and the distance to the Monivea Bog SAC and Lough Corrib SAC, would not be likely to have significant effects on these designated sites.
- The proposal complies with the National Planning Framework (NPF) and the Report of the Mobile and Broadband Taskforce in relation to the provision of telecommunication services.
- The proposal accords with the Telecommunications, Antenna and Support Structures (Guidelines for Planning Authorities), 1996, in relation to co-location, the monopole design of the structure and the nature of the site, and with Circular PL07/12.
- The proposal complies with the Galway County Development Plan 2015-2021 regarding the need to facilitate the delivery of telecommunications, broadband and

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<sup>3</sup> Reference is made in this context to the Galway County Development Plan 2015-2021.

digital infrastructure, the siting of telecommunication structures and the provision for co-location.

- 2.3. The application was also accompanied by photomontages of the proposed structure from 6 no. locations in the vicinity.

## **3.0 Planning Authority Decision**

### **3.1. Request for Further Information**

Prior to the decision of the Planning Authority to grant permission for the proposed development, the Planning Authority requested Further Information.

#### **3.1.1. Further Information was requested on the 18<sup>th</sup> of July 2023 as follows:**

- Item 1 – submit Appropriate Assessment Screening report.
- Item 2 – reduce height of proposed structure and examine potential for re-designing the structure to resemble a landscape feature, e.g. a tree.
- Item 3 – submit bat, bird and mammal survey.
- Item 4 – submit bat survey.
- Item 5 – submit landscape plan.

#### **3.1.2. Further information submitted on the 14<sup>th</sup> of April 2023.**

- Item 1 – Appropriate Assessment Screening report submitted which concludes that no significant effects are expected on the qualifying interests or conservation objectives of Monivea Bog SAC and Lough Corrib SAC as a result of the proposed development.
- Item 2 – the visual impact of the proposed structure is negligible and alternative structures will not provide a suitable base for the equipment. The height of the structure is required to accommodate operators and to provide for a line of sight between base stations.
- Item 3 – Ecological Impact Assessment (EclA) submitted addressing possible impacts on birds, bats and mammals. Report notes that, the site does not contain habitats suitable for bat roosts and that impact on bats is low and no mitigation measures are necessary; the site is of low ecological value for birds.

Mitigation measures for birds are proposed, including that vegetation removal is carried out outside nesting season; the presence of badger setts in proximity to the site are noted and mitigation measures are proposed to address this.

- Item 4 – see above.
- Item 5 – landscape plan submitted.

### 3.2. Decision

The Planning Authority issued a Notification of Decision to Grant Permission<sup>4</sup> on the 10<sup>th</sup> of May 2023 subject to 11 no. conditions. The following conditions are of note;

**C7 (ii)** – development described in Class 31 of Part 1 of schedule 2 of the Planning and Development Regulations, 2001, as amended, shall not be carried out within the site without a prior grant of planning permission.

**C10 (i)** – the applicant/operator shall facilitate co-location of other operator's antenna on the structure.

### 3.3. Planning Authority Reports

#### 3.3.1. Planning Reports

The first report of the Planning Officer includes the following comments;

- The site of the proposed mast is over 200 metres from the nearest dwelling.
- The site is located in a landscape character area with a low sensitivity.
- The site is set back from the main village and does not overly protrude over the existing landscape.
- The applicant has demonstrated that the proposal seeks to address deficiencies in the local area.

#### Further Information Recommended.

#### 3.3.2. The second report of the Planning Officer notes;

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<sup>4</sup> The description of proposed development in the PA's Notification to Grant Permission refers to a '34m high monopole support structure with 3 metre extension'. This appears to be a typographical error and I note that a subsequent description refers to 'overall height 27 metres above ground level'. Additionally, Condition No. 2 stipulates that the structure shall have a maximum height of 27 metres.

- The proposed development will only be visible from the applicant's own property and from a number of adjacent sites.
- Subject to the implementation of mitigation measures no long-term negative impacts are anticipated on badgers. The site is of low ecological value for birds.
- The co-location of multiple operators at the mast accords with local and national policy.
- Impacts on residential amenity, business, Protected Structures and archaeology, and from noise, are considered negligible owing to the location of the mast.
- The proposal will comply with ICNIRP standards.

The report of the Planning Officer recommends a grant of permission consistent with the Notification of Decision which issued.

#### 3.3.3. Other Technical Reports

None referenced in report of the Planning Officer.

#### 3.4. Prescribed Bodies

None referenced in report of the Planning Officer.

#### 3.5. Third Party Observations

The Planning Officer's report refers to 63 no. submissions/observations having been received in relation to the planning application. The report of the Planning Officer provides a summary of the main issues raised in the third-party observations, which are as follows;

- Health impacts.
- Visual impact concerns.
- Impact on wildlife.
- Impact on value of residential property.
- Impact on local roads.
- Impact on local business.



- Potential conflict of interest concerning proposers.
- Committee members not from area.
- Noise pollution concerns.
- Potential for damage to occur to infrastructure during construction.
- Risk to Protected Structures in area/archaeology.
- Lack of pre-planning.
- Proposal is not justified.
- Potential impact on a right-of-way.
- Absence of Environmental Impact Assessment.
- Monivea Demesne is to be used as a public amenity.
- Potential positive impacts from proposal.

## 4.0 Planning History

### **Appeal Site (relevant/recent)**

PA. Ref. 18/1348 – Permission GRANTED for clubhouse and wastewater treatment system.

PA. Ref. 16/181 – Permission GRANTED for clubhouse, car parking and wastewater treatment system.

## 5.0 Policy Context

### 5.1. National Policy

#### 5.1.1 National Planning Framework ‘Project Ireland 2040’:

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

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

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

#### 5.1.3 National Broadband Plan 2020:

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

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

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

Section 4.3 ‘Visual Impact’, provides that, *‘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'. Section 4.3 also states, '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. 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 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'.*

Section 4.3 also notes that some masts will remain quite noticeable in spite of the best precautions and that the following considerations may need to be taken into account, specifically, whether a mast terminates a view; whether views of the mast are intermittent and incidental, and the presence of intermediate objects in the wider panorama (buildings, trees etc).

#### **5.1.5 Circular Letter PL 03/2018**

Circular Letter PL 03/2018, dated 3<sup>rd</sup> July 2018 provides a revision to Chapter 2 of the Development Contribution, Guidelines for Planning Authorities, 2013, and specifically states that the waiver provided in the Development Contribution, Guidelines for

Planning Authorities, 2013 should apply not only to the provision of broadband services but also to mobile services.

#### **5.1.6 Circular Letter PL 07/12**

Circular Letter PL 07/12, dated 19<sup>th</sup> October 2012, sets out to revise Sections 2.2. to 2.7 of the 1996 Guidelines. The Circular was issued in the context of the rollout of the next generation of broadband (4G). It advises Planning Authorities to:

- Cease attaching time limiting conditions to telecommunications masts, except in exceptional circumstances;
- Avoid inclusion in development plans of minimum separation distances between masts and schools and houses;
- Omit conditions on planning permission requiring security in the form of a bond/cash deposit;
- Reiterates advice not to include monitoring arrangements on health and safety or to determine planning applications on health grounds;
- Future development contribution schemes to include waivers for broadband infrastructure provision

## **5.2 Development Plan**

5.2.1. The Galway County Development Plan 2022-2028 is the relevant development plan.

5.2.2. The appeal site is not subject to any specific land-use zoning. The provisions of the Galway County Development Plan 2022 – 2028 relevant to this assessment are as follows:

- Policy Objective ICT1 : ICT Infrastructure
- Policy Objective ICT2: National Broadband Plan
- Policy Objective ICT3: Telecommunications Antennae and Support Structures

- Policy Objective ICT4: Co-location of Antennae
- Policy Objective ICT5: Siting and Design of Telecommunications Infrastructure
- Policy Objective ICT6: Visual Impact and Antenna Support Structures
- Policy Objective LCM1: Preservation of Landscape Character.
- Policy Objective LCM2: Landscape Character Classification.
- DM Standard 42: Telecommunications Masts

5.2.3. The appeal site is located within the 'North Galway Complex Landscape' (see Map 1 of Landscape Character Assessment, Appendix 4 of Galway County Development Plan 2022-2028) for the purpose of landscape type. The 'North Galway Complex Landscape' (see Map 6) is described as having a 'low' sensitivity and a value rating of 1. There are no scenic routes or protected views in the vicinity of the appeal site.

### 5.3. **Natural Heritage Designations**

- Monivea Bog SAC (Site Code 002352) – c. 650 metres south.
- Lough Corrib SAC (Site Code 000297) – c. 1.5 km east.
- Monivea Bog pNHA (Site Code 000311) – c. 650 metres south.
- Tiaguin Bog pNHA (Site Code 001709) – c. 1.7 km east.

### 5.4. **EIA Screening**

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

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

This is a third-party appeal (3 no.) against the decision to grant permission. The grounds for appeal can be summarised as follows;

Phil & Gerard Moore & Others

- The proposed development does not comply with the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996 (Department of the Environment and Local Government) in relation to the location of telecommunication structures only being situated within or in the immediate surrounds of smaller towns and villages as a last resort.
- Circular Letter 07/12, as it relates to the direction for development plans not to include minimum separation distances between telecommunication structures and facilities such as schools, should not be used as a justification to disregard the potential negative impacts on health. Allowing greater flexibility in this context should not be taken as not taking the issue of reasonable separation distance into account.
- The Telecommunication guidelines recommended that locations beside schools are not considered suitable, and whilst the prescribing of a minimum separation distance is no longer common practice the general guidance should be regarded as warning signal.
- A site in proximity to a village is not a suitable location for the proposal. The site is also close to a playground, preschool, school and residential areas. Alternative locations suggested by the appellant, including agricultural land in the vicinity.
- There is no evidence that the proposed location is the last and only resort. A recent Board decision (ABP Ref. 312528) sets a precedent for refusing permission on this basis and a similar approach should be followed in this case.
- It is unclear whether the possibility of co-locating on existing structures in the area has been examined.
- Poor coverage in the area can be addressed by the installation of repeater units.
- There is relatively high-speed fibre cable serving the area and broadband in the area is very good. The availability of a fibre network was referenced in ABP. Ref. 312528.
- DM Standard 28 of the Galway County Development Plan requires that masts and associated base stations should be located away from existing residences

and schools. As the proposal is located immediately adjacent to residential area, a pre-school, a national school and an amenity area this would indicate that the proposal is a material contravention of the Development Plan, and the Board may be precluded from granting permission for the proposed development.

- The site is against the backdrop of Monivea Demesne, the nearest recreational woodland to Galway City, is on a mass path, and should be kept free of constructions, unless there is a good reason for doing otherwise.
- The forest adjacent to the site is a commercial forest and there is no guarantee that the site will continue to be surrounded by trees, leaving the site more exposed. Details of Coillte's Mid-West BAU 5 year forest plan submitted with appeal.
- Photomontages submitted with the application were taken when the trees in the area were in full leaf. The shedding of leaves from deciduous trees would increase the visibility of the site.
- Alternative photomontages submitted by appellant which it is stated show the proposal to be more prominent and obtrusive.
- The proposal will affect Protected Structures in the vicinity.
- An 'Appropriate Assessment Screening' was submitted by the applicant and not an 'Appropriate Assessment'.
- The bat survey was not undertaken in-season.
- The Groundwater Vulnerability rating for the site is 'extreme' and not 'high' as stated by the applicant. The construction of foundations in this context is raised by the appellant as a resulting in potential negative impacts in the context of the Appropriate Assessment Screening.
- Killaclogher River, which forms part of Lough Corrib SAC, is 30 metres lower than the site and may therefore provide a hydrological connection between the site and Lough Corrib SAC, this link has not been assessed by a hydrologist and has not be addressed in the Appropriate Assessment Screening.

- The Appropriate Assessment Screening identifies potential impacts from surface water run-off during the construction phase but does not explain why impacts on the SAC from same are not likely. Mitigation is required for surface water run-off and this triggers the requirement for an NIS. Other impacts on page 18 of the AA Screening report are also identified but similarly no explanation is provided as to why mitigation and an NIS are not required.
- The applicant has not taken into account the effects of non-ionising electromagnetic fields on flora and fauna.
- There is emerging data in relation to the potential health impacts from the proposed development. The Telecommunication Guidelines may not be sufficient to enable the Board to fulfil its duty of care in regard to safeguarding public health (summary of findings of a report into health implications of telecommunication masts submitted with appeal).
- Potential negative impacts of the proposal on property prices.

#### Michael F. Dolan

- The proposed development is located on a right-of-way in favour of the appellant, a fact which has been ignored by the Planning Authority. The right-of-way was registered following the purchase of a field by Monivea RFC.
- Details of the right-of-way are provided (see Appendix 1 and 4 attached to appeal).
- A letter from the appellant's solicitor confirming the existence of the right-of-way and a letter issued by the appellant's solicitor further clarifying the matter after the Planning Authority granted permission for the proposed development have been provided (see Appendix 2 and 3).
- There is a charge in favour of the Minister of Arts, Sports and Tourism over the lands. The proposed development of a telecommunication mast is inappropriate in this context.
- Galway County Council were previously informed of the right-of-way in the context of a previous planning application and car parking was subsequently relocated.



- No consent has been given in respect of the carrying out of the proposed development on lands which the appellant has a legal interest in.

#### Carmel & Liam Turley

- The proposed development does not comply with the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996 (Department of the Environment and Local Government) in relation to the location of telecommunication structures only being situated within or in the immediate surrounds of smaller towns and villages as a last resort. The proposal is located adjacent to residential areas, a preschool, a national school and amenity areas. There is no evidence that the proposed location is a last resort.
- The proposed development does not accord with DM Standard 42 (b) of the Galway County Development Plan 2022 – 2028, which requires that masts and base stations should be located away from existing residences and schools. The development represents a material contravention of the Galway County Development Plan in this regard.
- The proposed development will have a detrimental effect on the amenity of Monivea and on recreational forestry (which is the closest recreational woodland to Galway City) and fauna.
- The photomontages submitted are selective.
- The proposed development relies on woodland for screening however there is no guarantee that these trees will not be felled in the future as the forest is a commercial forest.
- The Ecological Impact Statement is deficient;
  - No Appropriate Assessment was carried out.
  - The bat survey was not carried out in-season or to an approved methodology.
  - Mitigation is required for surface water and biosecurity, triggering the requirement for an Appropriate Assessment.

- No explanation is provided as to why surface water run-off will not result in impacts on the SAC. The reason why impacts identified on page 18 of the Appropriate Assessment Screening report do not require mitigation measures and an NIS are not set out.
- Measures to address bird nesting are unworkable.
- Potential health risks/impacts for humans and fauna from telecommunication structures.

## 6.2. Applicant Response

The applicant has submitted 2 no. responses in respect of the third party appeal submissions. The first, in respect of the appeals lodged by/on behalf of Phil and Gerard Moore and Others and Carmel and Liam Turley, can be summarised as follows;

- The proposed development is in accordance with national, regional and local policy as they relate to telecommunications, specifically the Telecommunication Guidelines for Planning Authorities 1996, Project 2040, the National Development Plan 2021, the RSES and the Galway County Development Plan.
- The proposal accommodates multiple users, and accords with the requirements of the Telecommunication Guidelines and the Galway County Development Plan in this regard.
- The required services and services and coverage cannot be met by existing structures. There are no telecommunication structures in Monivea or the immediate surrounding area, with the closest structure located c. 5.6 km from Monivea. The existing telecommunication structures are each used by multiple operators.
- Coverage maps submitted demonstrate existing coverage in the area and the coverage which will arise from the proposed development.
- It would be impossible provide telecommunication services without locating infrastructure in proximity to dwellings, towns and villages. The proposal is located close to Monivea village as this is the area which it is intended to serve.
- The proposal will improve indoor voice and data services. The proposal will improve opportunities for business and for people working from home.

- The monopole design of the structure is the preferred design for town and village settings as per the Telecommunication Guidelines.
- The height of the structure is designed to the effective height to provide adequate services.
- The location of the proposal is relatively remote from residences, with the closest dwelling c. 200 metres from the proposed structure. Surrounding land uses comprise mainly recreational open space and forestry.
- The site is not located within a SAC, SPA or NHA, and is not in proximity to any Protected Structures.
- The proposed structure will be mostly screened by existing vegetation and the built environment.
- An Bord Pleanála reference PL26.247800 addresses the issue of separation distance to dwellings and notes that there is no requirement for a set separation distance, and that it is common in urban areas for telecommunication structures to be located in proximity to residential development.
- An Bord Pleanála reference PL02.243341 addresses the issue of the impact of telecommunication structures on property values and the Inspector's report noted that this is dependent on the subjective opinion of the purchaser.
- Property values could be positively affected by improved broadband services.
- Structures of similar height have been permitted by An Bord Pleanála (see Ref. ABP-313295-22 and ABP. Ref. 312808-22).
- The receiving landscape is classified as having a 'low' sensitivity.
- The Galway County Development Plan does not specify a minimum separation distance between telecommunication structures and dwellings.
- There are other natural woodlands managed by Galway County Council and woodlands within Galway City and its environs. Monivea Woods is not the nearest recreational woodland to Galway City.
- The proposal will be intermittently visible in the surrounding landscape from a small number of locations, however it does not terminate any views and is

located a significant distance from sensitive receptors. The photomontages submitted were prepared to centimetre accuracy.

- The issues raised by the appellants in relation to impacts on flora and fauna are addressed in the Appropriate Assessment Screening, Ecological Impact Statement, Hydrological Study and the Eire Ecology Cover Letter.
- Circular Letter PL07/12 states that Planning Authorities should not determine planning applications on health grounds.
- ComReg is the licencing authority in relation to the use of radio frequency and non-ionising radiation and the proposal will be subject to the requirements of ComReg and health and safety legislation in this regard.
- The potential impact of EMF on fauna is addressed in Eire Ecology's report.
- The applicants submission is accompanied by a hydrology report which notes;
  - The Killaclogher river is c. 1.5 km east of the site. A drain flowing into the Killaclogher river is located c. 870 metres south of the site.
  - Due to flow paths and topography direct contamination is not possible during construction.
  - The ground water table is very low at the location of the proposed development. Bedrock and the water table were not encountered within 2.5 metres in the trial hole.
  - Contamination of the ground water table from concrete during construction and infiltration to the Killacogher river is highly unlikely.
  - Groundwater vulnerability on the site is 'extreme' and 'high'. Karst areas are not in the immediate vicinity, or on the site. The site is not considered to be highly sensitive in relation to groundwater.
  - The foundation for the proposed structure is 1 metre deep, therefore 1.5 metre above the groundwater table. Lean mix concrete will be used which has less concrete and less water. Concrete for the foundation has permanent Coriboard shuttering on the perimeter. Concrete seeping into groundwater is highly unlikely.
  - A foundation construction method statement has been submitted.

- The applicants submission is accompanied by an ecology report which notes;
  - The bat roost of the Lesser Horseshoe bat associated with Lough Corrib SAC is located at Clonbor, c. 48 km from the site of the proposed development, and noting that the Core Sustenance Zone (CSZ) for this species is 2.5 km the development site is c. 45 km from the CSZ for this species. At this distance there is no connectivity between the Lesser Horseshoe bat and the subject site.
  - The closest Lesser Horseshoe bat roost to the site (not part of a designated site) is c. 17 km from the development site.
  - Noting the lack of roosting potential within the site the bat survey undertaken was aimed at identifying feeding activity at the site, and a second static survey was undertaken from the 26<sup>th</sup> of June to the 1<sup>st</sup> of July. No Lesserhorse Shoe bats were recorded in any survey. The site is used by bats for feeding but not for roosting.
  - There is a dearth of scientific research examining impacts on bats from radiofrequencies and microwaves. A single study; Nicholls B & Racey P (2009) explored the use of radiofrequency electromagnetic fields as a method of preventing bats from death caused by collisions with wind turbines. The study found bat activity was significantly reduced in habitats exposed to an electromagnetic field strength of greater than 2 V/m (volt per meter), however although bat activity was significantly reduced during experimental trials substantial numbers of bats continued to forage within the beam, and it is possible that only a particular combination of wavelength, pulse repetition rate, power output and target size or orientation may provoke a reaction and further work is necessary to elucidate this relationship further. It may be that only a specific combination of outputs impacts bat activity and basing a statement that all EMF's will impact bat activity is therefore not valid. The EPA Ireland webpage on mobile phone masts states that a typical mast in Ireland will have a V/m typically around 1; half that of the Nicholls B & Racey P (2009) trial. The webpage also states a mobile phone at ear has a V/m of 100. The BCT study states "mobile phone and Wi-Fi masts transmit an EMF of 0.5 - 2 v/m. It is therefore felt

that the power output of these masts is too low to have a significant negative impact on bats. However, studies are still in their infancy and little is known on the impact of a mast in the direct vicinity of a roost. They conclude by suggesting as a precaution, masts erected on buildings containing a bat roost should be carefully located as far from the roost as possible. The subject site at Monivea is not located at a roost entrance thus this suggestion is not relevant.

- The EclA has been updated to refer to 'Appropriate Assessment Screening'.
- The proposed development will have no impact on ground or surface water noting its small scale nature and no mitigation measures are required to address same.

The second response from the applicant, in respect of the appeal from Michael F. Dolan, can be summarised as follows;

- The right-of-way relates exclusively to water mains maintenance and inspection purposes.
- If the appellants had indicated the location of a water main which was required to be maintained/inspected the applicant would have taken due consideration of same.
- Suitable arrangements can be made to ensure that the appellants have access to maintain/inspect any watermain. There are adequate lands outside of the proposed development and within the right-of-way to provide same. The claimed right-of-way is 18 metres in width whilst the proposed development is 8 metres in width. The remaining 10 metres is more than adequate to provide a watermain within a 5 metre wayleave with an additional 2.5 metre freeboard to either side.
- A number of letters were issued to the appellant's solicitor however no responses have been received.

### **6.3. Planning Authority Response**

None received.

#### 6.4. Observations

The following observations were received in respect of the appeal.

##### Paschal & Geraldine Moyles

- The overall site boundary encroaches on the Observer's land (Folio GY34121) and the applicant relies on the Observer's lands for access.
- The applicant has not consulted the Observer in relation to the proposal and does not have their consent to use their lands for the construction of the proposal.
- Concerns expressed regarding traffic accessing and egressing over the Observer's lands.
- The applicant has erected signage on the Observer's land.

##### Department of Housing, Local Government and Housing

- The site is c. 500 metres north of Monivea Bog SAC (Site Code: 002352) and 1.5km west of the of the Killaclougher River, part of Lough Corrib SAC (Site Code 000297).
- The Department have concerns regarding the proximity of the proposed development to active Badger Setts within Monivea Woods. Badgers and their Setts are legally protected under the Wildlife Act 1976, as amended.
- The Board should be satisfied prior to granting permission for the proposed development that it will not pose any significant effect on nearby European Sites qualifying interest habitats, species and especially on water quality.
- In the event planning permission is granted it is recommended that the Badger Mitigation Measures as outlined in Chapter 7.1 of the Ecological Impact Assessment be strictly adhered to and be a condition of planning.
- It is recommended that the Badger Setts be monitored by a suitably qualified ecologist during the ground preparation, excavation, and construction stage of this development.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeals, the observations, and the applicant's response to same, and having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Technical Justification/Appropriateness of Location.
- Impact on Visual Amenity.
- Impact on Residential Amenity.
- Ecological Impact.
- Other Issues.
- Appropriate Assessment.

### 7.2. Technical Justification/Appropriateness of Location

7.2.1. The first party states in the information submitted with the planning application/appeal that the proposed development is required at this location in order to address specific service/coverage deficiencies in Monivea and the surrounding area. The first party has submitted ComReg coverage maps indicating existing coverage for each of the three operators who are co-locating on the proposed structure. I have consulted ComReg's coverage maps for outdoor coverage and note that Monivea is identified as having 'fringe coverage'<sup>5</sup> for Eir's 4G services and 'no coverage' for 5G for the village. Three's coverage in the village is indicated as 'fringe coverage' for both 4G and 5G and Vodafone's coverage for 4G and 5G in the village is noted as 'fair'<sup>6</sup> and 'fringe coverage' respectively. On the basis of the existing level of service within Monivea, as indicated on ComReg's mobile coverage mapping, which I note relates to outdoor coverage, and consequently given that indoor service is likely to be of a reduced level, I consider that the proposal is therefore justified.

7.2.2. The Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, 1996 provide that *'only as a last resort should free-standing masts be*

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<sup>5</sup> According to ComReg's website, areas with fringe coverage are described as 'marginal or poor connections/data speeds with disconnections likely to occur'.

<sup>6</sup> According to ComReg's website, areas with 'fair' coverage experience 'fast and reliable data speeds, but marginal data with drop-outs is possible at weaker signal levels'.



*located within or in the immediate surrounds of smaller towns or villages, and 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’, and.... ‘the support structure should be kept to the minimum height consistent with effective operation’. The Guidelines also state, ‘only as a last resort, and if alternatives 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 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’.*

7.2.3. The appeal site is located on the eastern edge of the village within a sports grounds. I note that there are no existing telecommunications sites within Monivea. Furthermore, the applicant has indicated that existing telecommunication sites in the vicinity of Monivea are too remote to serve the village/target area with the level of coverage required, with the closest telecommunication site being indicated c. 5.6 km from Monivea. The applicant also notes that the operators who intend on locating on the proposed structure are already accommodated at the sites in the wider area. On the basis that there are no existing telecommunication sites within Monivea, and that existing sites in the vicinity of Monivea have been demonstrated to be unsuitable to provide the required level of coverage, and that these sites are already being used by the operators who intend on locating on the proposed structure, I consider that the site of the proposed structure, which is in the immediate surrounds of a village, can be considered in accordance with the Guidelines. Furthermore, I note that the design of the support structure is a monopole structure, as recommended by the Guidelines for sensitive locations, and that the height of the proposed structure allows for providers to co-locate onto the structure, as proposed. On this basis I consider the appeal site to be appropriate for the proposed development of a telecommunication structure in the context of the Telecommunication Guidelines.

7.2.4. DM Standard 42 (b) of the Galway County Development Plan requires that masts and associated base station facilities are located away from existing residences and schools. I note that the Galway County Development Plan does not specify a minimum

separation distance, as per the advice contained in Circular 07/12. The proposed structure will be located c. 200 metres from the closest dwelling. Monivea National School is located at the opposite/western end of the village, c. 700 metres from the proposed structure. Noting the separation distance between the proposed structure and the closest dwelling and the national school I am satisfied that the proposed development accords with DM Standard 42 (b) of the Galway County Development Plan.

7.2.5. I note that the appellants refer to the proposed development as materially contravening DM Standard 42 (b) of the Galway County Development Plan 2022 – 2028. As addressed above I consider that the proposed development accords with DM Standard 42 (b). In the event that the Board consider that the proposed development does not accord with DM Standard 42 (b) I note that the Board would not be precluded from permitting the proposal, should they so wish, as the Planning Authority did not refuse permission for the proposal on the basis of material contravention of the Development Plan. The provision of Section 37 (2) (b) would therefore not pertain.

7.2.6. An appeal submission refers to the possibility of using repeater units in lieu of the proposed telecommunication structure. In my opinion the Board are required to assess the development as proposed and not to evaluate alternatives which in my view are outside the scope of the appeal.

7.2.7. In summation, based on the information submitted, I consider that there is a technical justification for the proposal at this location. I am also satisfied that the appeal site is appropriate for such a development and that the proposed development accords with the provisions of the Galway County Development Plan 2022 – 2028<sup>7</sup>, and the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities in relation to the location of installations.

### **7.3. Impact on Visual Amenity**

7.3.1. The appeal site is located within the ‘North Galway Complex Landscape’ for the purpose of landscape type. The ‘North Galway Complex Landscape’ is described as

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<sup>7</sup> Compliance with Development Plan policy in respect of the location of telecommunication structures is further addressed at paragraph 7.4.

comprising 'agriculture, scattered forestry and associated field patterns' and it is noted that 'this landscape type can exhibit large and abrupt changes of character over very short distances', with 'a dense network of smaller settlements and roads'. Regarding significance, many areas within the 'North Galway Complex Landscape' are described as having local sensitivities, often on account of local amenities or historic sites. The 'North Galway Complex Landscape' landscape character area is described as having a 'low' sensitivity.

- 7.3.2. The appeal site is located on the eastern edge of Monivea village. I note that telecommunications and other utility structures are not atypical within village settings. The site of the proposed structure is located at the easternmost edge of the lands which encompass Monivea RFC's grounds and as such is sited as far as possible from adjacent dwellings, the village and the R339.
- 7.3.3. I also note that Monivea Demesne/Woods will provide a significant degree of screening for the proposed structure. The appellants make the case that this area comprises a commercial forest which could be felled, negating any screening in the future. I note that the Coillte report referred to by the appellant refers to Monivea as a recreational forest of 241 Ha. and that between the years 2021 to 2025 it is intended to clearfell a total of 10 Ha. of forest, and not the entire area. In the absence of conclusive information to the contrary, I consider it reasonable to consider the existing forested area to the north of the site as affording screening to the proposal in the medium to long-term.
- 7.3.4. The appellants note that the photomontages are not accurate and that when foliage on trees is absent that the proposed structure will be more prominent. I undertook my site inspection in January when deciduous trees on/adjacent to the site were bare, and therefore have inspected the condition of the site at its most exposed in this regard. I am satisfied that the photomontages submitted by the applicant are representative and I note the applicant has provided the basis for each photomontage including the height from which the photograph was taken, the distance to the proposed structure, coordinates etc. Whilst the structure will likely be visible from additional locations in the vicinity it would not be feasible or reasonable in my opinion to require each and every location from which the proposal will be visible from to be illustrated in

photomontages. I further note the Visual Impact Assessments are only required under DM Standard 42 (b) Galway County Development Plan 2022 – 2028 for sites located in landscape sensitivity rates of 3 (Special) or 4 (Iconic). In my opinion the purpose of the photomontage is to provide a representation of the proposal within the wider landscape and I consider that the photomontages which have been submitted provide a reasonable representation of the proposal. Based on my site inspection and the photomontages submitted by the applicant, and also those submitted by the appellant, I consider that the proposal will be intermittently visible in the surrounding landscape from a number of locations, however I also note that the proposed structure does not terminate any view and will be perceived within a wider context, specifically a developed village landscape. As such, I do not consider that the proposed structure would dominate or be unduly intrusive within the landscape at this location. Noting the developed nature of the landscape in the vicinity of the appeal site, the presence of screening around the boundaries of the site, and the design of the proposed structure, comprising a monopole, I am satisfied that the proposal would not be incongruous within the immediate landscape, that the overall visual impact of the proposal would be satisfactory in the context of the visual amenities of the area, that the proposal accords with Objective ICT5 (re. siting and design in relation to the erection of communication antennae and support infrastructure) and DM Standard 42 (c), of the Galway County Development Plan 2022 – 2028, specifically that masts should be designed and located so as to cause minimum impact on the landscape, and that a refusal of permission on the basis of visual impact would therefore not be warranted.

- 7.3.5. There are no scenic routes or protected views indicated in Appendix 4 of the Galway County Development Plan 2022-2028 in the vicinity of the appeal site. The closest Protected Structure (i.e. RPS Ref. 112, Church) and Recorded Monument (i.e. GA.071.038001, Graveyard) are c. 350 metres west from the site of the proposed telecommunication structure. Having regard to the separation distance between the proposed telecommunication structure and the closest Protected Structure and Recorded Monument, I am satisfied that the proposed development would not have any significant adverse effect on the built or archaeological heritage in the area.
- 7.3.6. The proposal monopole structure facilitates co-location with other operators, thereby avoiding the need for other antennae in the area. In the interests of clarity, should the

Board be minded to grant permission for the proposed development I recommend that a planning condition is attached requiring the applicant to facilitate other operators to co-locate onto the structure.

#### **7.4. Impact on Residential Amenity**

- 7.4.1. The appellants cite proximity to the residences as one of the principle concerns in relation to the proposed development. As addressed above at paragraph 7.2.4. DM Standard 42 (b) of the Galway County Development Plan 2022 – 2028 states that *‘masts and base stations should be located away from existing residences and schools’*. In accordance with the guidance set out under Circular PL07/12, DM Standard 42 does not refer to a minimum separation distance between telecommunications structures and residences. I note the separation distance between the proposed structure and the closest dwellings to the west and north-west at c. 200 metres. I consider that the separation distances between the proposed telecommunication structure and these dwellings, and also to dwellings in the vicinity, to be adequate to ensure that there would be no significant overbearing or visual intrusion arising from the proposed development. Having regard to the forgoing, I am satisfied that the proposed development would not result in significant negative impacts on the amenity of residential property adjoining the appeal site, or in the vicinity of the appeal site, and that the proposed development accords with DM Standard 42 of the Galway County Development Plan 2022-2028.

#### **7.5. Ecological Impact**

- 7.5.1. The applicant submitted an Ecological Impact Statement following a request for Further Information. The Ecological Impact Statement, which was carried out/reviewed by an ecologist, addresses the potential impact of the proposed development on bats, badgers and birds.
- 7.5.2. A desktop study was undertaken to examine existing records of habitats and species present on the site, followed by site visits and site walkover. Habitats were surveyed in early April and signs of mammals were searched for during site visits in winter and spring. A static bat detector was used in late March to early April in addition to a walked

night bat survey on the 6<sup>th</sup> of April. Wintering and migratory bird surveys were undertaken from November to April.

- 7.5.3. The site comprises part of a wider site consisting of 'Amenity Grassland' (i.e. Monivea Rugby Football Club) with the location of the structure comprising 'Spoil and Bare Ground'. The statement notes that migratory bird surveys would normally include an October survey however due to the late appointment of the ecologist this was not carried out, however most of the autumn and spring migratory period was covered. The Ecological Impact Statement notes that despite the timing of surveys given the low ecological quality of the site the surveys conducted adequately quantify the ecological value of the site. Badger surveys were conducted at the appropriate time of year.

Bats – A walkover was conducted on the 28<sup>th</sup> of November to examine the potential for any features suitable to host a bat roost. The site does not contain habitats suitable as use for a bat roost. No trees or buildings are being removed as part of the proposal and no direct impact on roosting bats is anticipated. A static detector survey was undertaken at the very start of the active bat season and a dusk mobile detector survey was also undertaken on the 6<sup>th</sup> of April. The survey identifies bat activity in the area but concludes that it is highly unlikely that the proposed development will impact on the local bat population given that it will not reduce bat feeding habitats. The impact of the proposed development on bats is concluded to be low. No mitigation measures are required for bats.

Badgers – Following walk-over surveys carried out on the 28<sup>th</sup> of November a number of disused burrow entrances were noted within the adjacent woodland. An activity survey conducted on the 7<sup>th</sup> of February identified 2 no. sett entrances with fresh scratch marks and snuffle holes. A night camera identified high badger usage in the area. The Ecological Impact Statement recommends that construction works are overseen by an ecologist. Mitigation measures are proposed to address potential impacts on badgers (see Table 7.1 of the Ecological Impact Statement).

Birds – The Ecological Impact Statement notes that Amenity Grassland typically does not support high diversity of bird species and notes that no bird species of note were found within the site, the site is of low ecological value to birds, bird numbers recorded were low and no nationally important flocks were recorded in the area. The Ecological

Impact Statement recommends that vegetation removal is ideally carried out outside bird nesting season, and that if required earlier that an ecologist should oversee these works.

7.5.4. The appellants note that bat survey was not undertaken in-season/to required methodology, that the applicant has not taken into account the effects of non-ionising electromagnetic fields on flora and fauna and that measures to address bird nesting is unworkable. Additionally the submission from the Department of Housing, Local Government and Heritage recommend that the mitigation measures for badgers outlined in the Ecological Impact Statement are required by planning condition in the event that the Board grant permission for the proposed development.

7.5.5. In relation to the bat survey, the applicant has submitted a response to the appeal submissions and notes that the site is used by bats for feeding but not for roosting, that the bat survey undertaken was aimed at identifying feeding activity at the site, and that a second static survey was undertaken from the 26<sup>th</sup> of June to the 1<sup>st</sup> of July. Noting the absence of bat roosts at the site, and that the activity survey for bats was conducted within the recommended period i.e. during summer months when bats are most active, I am satisfied that the survey was undertaken within the appropriate period.

7.5.6. In relation to the effects of non-ionising electromagnetic fields on flora and fauna, I note that the appellant's submission is not species specific. In the context of the existing ecological profile of the site I consider that bats are the most likely species in terms of potential impact. The applicant's submission notes that there is a dearth of scientific research examining impacts on bats from radiofrequencies and microwaves, that the power output from masts is too low to have a significant negative impact on bats, but that in any event the proposal is not located at a roost entrance. On the basis of the information submitted by the applicant in relation to the potential impact of masts on bats, and noting the absence of bat roosts on/at the site I consider the potential for significant adverse effects on bats to be low.

7.5.7. In relation to the implementation of measures to address impacts during bird nesting, specifically the removal of vegetation during bird nesting season, I note that this issue

is addressed under Section 40 of the Wildlife Act 1976 and therefore should the Board be minded to grant permission for the proposed development I recommend that a condition prohibiting the removal of hedgerow during bird nesting season is not included as it is addressed under a separate code/legislation.

7.5.8. I note that the wintering bird survey was carried out between November and April. The NPWS recommend that the window for wintering bird surveys is September to March. Noting that the surveyed period observed low bird numbers and no nationally important flocks, and that should birds have arrived in the un-surveyed months (i.e. September and October) they would have been present on the site in the subsequent months, and given the low ecological value of the site to birds I am satisfied that the proposed development would not adversely effect birds.

7.5.9. The Ecological Impact Statement recommends that mitigation measures are carried out for badgers. Subject to the implementation of these measures I am satisfied that the proposed development will not adversely affect badgers. I note that the DoHLGH submission recommends that badger setts are monitored by an ecologist during works. I note however that the badger setts are located on adjoining third party lands and are outside the blue line boundary of the appeal site, and as such a condition requiring same cannot be attached in the event of a grant of permission.

## **7.6. Other Issues**

### **7.6.1. Health**

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



#### 7.6.2. Development Contributions

The Development Contribution, Guidelines for Planning Authorities, published in 2013 by the then Department of Environment, Community and Local Government, as updated by Circular Letter 03/2018, provides that Planning Authorities are required to include waivers for broadband infrastructure (masts and antennae) in their development contribution schemes so as to contribute to the promotion of economic activity. Additionally, Part 4 of the adopted Galway County Council Development Contribution Scheme (as revised 1<sup>st</sup> August 2019) states that 'no development contribution levies shall be payable for development (antennae and masts) associated with the roll out of the National Broadband Plan across the County'. Having regard to the forgoing, should the Board be minded to grant permission for the proposed development, I do not consider it necessary to attach a condition requiring the payment of a development contribution in respect of the proposed development.

#### 7.6.3. Devaluation

The potential for devaluation of properties in the vicinity as a consequence of the proposal is raised in one of the appeal submissions. Having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

#### 7.6.4. IRPA Compliance Statement

DM Standard 42 of the Galway County Development Plan 2022 – 2028 requires that all planning applications shall be required to furnish a statement of compliance with the International Radiation Protection Association (IRPA) Guidelines or the equivalent European Pre-Standard 50166-2 in the interest of health and safety. I note that the cover letter (see Section 5) submitted with the planning application refers to the requirement that telecommunication equipment comply with ICNIRP standards and states that the proposed installation at Monivea will comply with ICNIRP standards. I

am satisfied that the proposal complies with the requirements of DM Standard 42 of the Galway County Development Plan 2022 – 2028 in this regard.

#### 7.6.5. Right-of-Way/Encroachment Issues

One of the appellant's states that the proposed development is located on a right-of-way in favour of the appellant. In the applicant's submission in response to this specific appeal the applicant notes the right-of-way relates exclusively to water mains maintenance and inspection purposes, and that there are adequate lands, outside of the proposed development and within the right-of-way, to facilitate the appellant's access to any watermain location within the right-of way as the right-of-way is 18 metres in width whilst the proposed development is 8 metres in width. I note that the appellant has not confirmed whether there are existing services/water mains at the location of the right-of-way or the site of the proposed structure. Having considered the submission from both the appellant and the applicant in relation to this issue, and noting the extent/footprint of the proposed development relative to the width of the right-of-way, I consider that a sufficient area is provided to facilitate access to any watermain for access/maintenance. I am therefore satisfied that the proposed development would not impede the right-of-way on the site. On the basis of the information submitted with the planning application and the appeal I am satisfied that the applicant has a sufficient legal interest in the lands in question in order to make the planning application, and I note that, in accordance with S. 34 (13) of the Planning and Development Act, 2000, as amended, a person shall not be entitled solely by reason of a permission under this section to carry out any development.

- 7.6.6. The observation submitted notes that the boundary of the site as indicated on *Drawing No. 01-0822 'Master Site Layout – Planning'* encroaches on the observer's land (Folio GY34121), that the applicant relies on the observer's lands for access to their site and does not have consent to use their lands for the construction of the proposal. The observation also states that the applicant has erected signage on their land. The area which the observer notes overlaps with lands within their Folio relates to the western extent of the blue line boundary and not the site boundary of the development which is the subject of this appeal. From reviewing the drawing concerned the encroachment would appear to arise from the depiction of the blue line boundary, specifically the

thickness of the line on the drawing. I note that the lands depicted as being within the applicant's control/ownership, i.e. those lands within the boundary of the blue line, appear commensurate with the observer's Folio and that there does not appear to be any obvious encroachment noting the underlying OS map detail relative to the extent of Folio GY34121. The observer alleges that the applicant has erected signage on property owned by the observer. I note that the area concerned is outside the appeal site and is therefore outside the scope of this appeal.

#### **7.6.7. Conditions of Planning Authority**

C7 (ii) of the Notification to Grant Permission provides that development described in Class 31 of Part 1 of schedule 2 of the Planning and Development Regulations, 2001, as amended, shall not be carried out within the site without a prior grant of planning permission. Noting the nature of the site, and the acceptability of the proposed development at this location I submit to the Board that a planning condition restricting the attachment of additional antenna etc. on the structure is not attached.

### **7.7. Appropriate Assessment**

- 7.7.1. I have considered the proposed development at Movivea Rugby Football Club in light of the requirements S177U of the Planning and Development Act, 2000, as amended.
- 7.7.2. The subject site is located c. 0.65 km north of Monivea Bog SAC (Site Code 002352) and c. 1.5 km west of Lough Corrib SPA (Site Code 000297). There are no drainage ditches or watercourses in the vicinity of the development site that provide direct connectivity to European sites.
- 7.7.3. The proposed development comprises a telecommunications structure and ground equipment cabinets enclosed by a perimeter fence within a 80 sqm enclosure.
- 7.7.4. The appellants note that the site and may be hydrologically connected to Lough Corrib SAC, that the AA Screening identifies potential impacts but does not adequately address these impacts on the SAC's, and also notes that mitigation is required for surface water run-off, triggering the requirement for an NIS.

7.7.5. The applicant's response to the appeal submissions notes that due to flow paths and topography, contamination of Lough Corrib is not possible during construction and that contamination of the groundwater table from concrete during construction and subsequent infiltration to the Killacogher river (which forms part of Lough Corrib SAC) is highly unlikely given the depth of the water table, with the foundation of the proposed structure being 1.5 metres above the groundwater table and as such concrete seeping into groundwater is highly unlikely. Regarding impacts on Lesser Horseshoe bat, the applicant notes that the bat roost of the Lesser Horseshoe bat associated with Lough Corrib SAC is located c. 48 km from the site of the proposed development, and at this distance there is no connectivity between the Lesser Horseshoe bat and the subject site.

7.7.6. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows;

- The nature and small scale of the development,
- The location of the development site and distance from nearest European site(s), and the weakness of connectivity between the development site and European sites.
- The location of the development site significantly outside the foraging range of the Lesser Horseshoe bat.
- Taking account of the screening report/determination by the Planning Authority.

7.7.7. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

7.7.8. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act, 2000) is not required.

## **8.0 Recommendation**

- 8.1. Having regard to the above it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions.

## **9.0 Reasons and Considerations**

Having regard to:

- (a) The DOEHLG Section 28 Statutory Guidelines; Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities, 1996, as updated by circular letter PL 07/12 in 2012,
- (b) The Galway County Development Plan 2022 – 2028, including DM Standard 42 Telecommunication Masts, Objective ICT 5 and Objective ICT 6,
- (c) The low landscape sensitivity of the area,
- (d) The distance between the proposed telecommunications structure and sensitive receptors, including residential development and Monivea National School,
- (e) The nature and scale of the proposed telecommunication structure,
- (f) The demonstrated need for the telecommunications infrastructure at this location,
- (g) Circular Letter PL 03/2018,
- (h) The Appropriate Assessment Screening report submitted by the applicant,
- (i) The Ecological Impact Assessment submitted by the applicant, including the mitigation measures contained therein, and,
- (j) The Hydrology report submitted by the applicant,

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

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

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the Planning Authority on the 14<sup>th</sup> of April 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The developer shall provide and make available at reasonable terms, the proposed support structure for the provision of mobile telecommunications antenna of third-party licenced telecommunications operators.</p> <p><b>Reason:</b> In the interest of avoidance of multiplicity of telecommunications structures in the area, in the interest of visual amenity and proper planning and sustainable development.</p>
3.	<p>Within six months of the cessation of the use of the telecommunications structure, all structures permitted under this permission shall be removed from the site, and the site shall be reinstated at the operator's expense in accordance with a scheme to be agreed in writing with the Planning Authority as soon as practicable.</p> <p><b>Reason:</b> In the interest of protecting the landscape.</p>
4.	<p>The mitigation measures set out in Section 7.1 of the Ecological Impact Statement in respect of badgers shall be implemented in full.</p> <p><b>Reason:</b> In the interest of protecting biodiversity.</p>

5.	<p>Details of the proposed colour scheme for the telecommunications structure and ancillary structures shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area.</p>
6.	<p>No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage of the site.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>

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.

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Ian Campbell  
Planning Inspector

28<sup>th</sup> August 2024