



An
Bord
Pleanála

Inspector's Report

ABP-317543-23

Development	S254 licence for the construction of a 15m high telecommunications mono-pole streetwork structure
Location	Groody Road, Newcastle, Castletroy, Co. Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	L23.01
Applicant(s)	Vantage Towers Limited
Type of Application	Section 254 Licence
Planning Authority Decision	Refuse Licence
Type of Appeal	First Party
Appellant(s)	Vantage Towers Limited
Observer(s)	None
Date of Site Inspection	18 th September 2023
Inspector	Claire McVeigh

1.0 Site Location and Description

- 1.1. The site comprises a section of grassed area with its eastern edge bounded by wall and railings of the housing estate Brú Na Gruadán. The subject site's northern edge is bounded by palisade fencing from the boundary of Groody Student Park. Adjacent to the subject site is a bus stop pole, rubbish bin and a streetlight. There is a pedestrian footpath and separate cycle lane running in front of the grassed area.
- 1.2. Groody Road is tree lined along its eastern side at this location and there are mature trees within the open space area fronting the estate Brú Na Gruadán which provides a green buffer to Groody Road. On the opposite side of Groody Road there are open views across the zoned 'Groody Valley Green Wedge' with some trees lining this side of the road a little south of the subject site.
- 1.3. The built form of the surrounding area includes Groody Student Park comprising two-three storey blocks surrounding courtyards and the two storey semi-detached properties at Brú Na Gruadán.

2.0 Proposed Development

- 2.1. The applicant is seeking approval for a Section 254 Licence to construct a 15m high telecommunications monopole street work structure with proposed RBS 6102 (cabinet type TBC) cabinet mounted on proposed concrete plinth and proposed Vantage RFE cabinet.
- 2.2. The lower section of the pole has an approximate diameter of 325mm from base to approximately 11m. Above this height a small 300mm dish with antennas is proposed to be mounted. The antennas are then shrouded by a matching sheath approximately 400mm in diameter and to the full height of 15m. The entire is constructed of galvanised steel, coloured grey and fixed to a base plate foundation.
- 2.3. It is noted in the application documentation, supporting report prepared by William Arnold of Charterhouse dated 16th March 2023, that due to its slim design the structure is unable to be used to support other operators' equipment.
- 2.4. A three year licence period is sought, from April 2023 to April 2026.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority refused the section 254 licence for one reason which was on the grounds that the proposed pole and associated structures would detract from the visual amenities of the area and would lead to unnecessary visual clutter.

3.2. **Planning Authority Reports**

3.2.1. Planning Report includes:

- The site is located just inside the boundary of land zoned for open space, as per the Limerick Development Plan 2022-2028 and that telecommunication structures are open for consideration under the open space zoning objective. The site is not located within an area at risk of flooding.
- The site is currently a grassed area of open space and there are no buildings or tree cover to provide screening. They note that the photomontage does not reflect the potential visual impact.
- Due to the prominent location of the site adjacent to the heavily trafficked Groody Road the telecommunications mono-pole street work structure would detract from the visual amenities of the area and lead to unnecessary visual clutter.
- Opportunities for locating the tower within the grounds of the hotel or a suitable location within UL, neither of which are on the public road should be explored.

3.2.2. Other Technical Reports

Transportation and Mobility Directorate: Letter of consent to the inclusion of the subject lands for the sole purpose of making a s254 application.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

4.1. None.

5.0 **Policy Context**

5.1. **Limerick City and County Development Plan 2022-2028 (as varied by Variation no. 1 May 2023)**

5.1.1. The subject lands are zoned 'Open space and Recreation' in which the stated objective is:

Objective: To protect, provide for and improve open space, active and passive recreational amenities.

Purpose: To provide for active and passive recreational resources including parks, sports and leisure facilities and amenities including greenways and blueways. The Council will not normally permit development that would result in a loss of open space.

Telecommunication structures are open for consideration under this zoning objective.

5.1.2. Map 5.1: Urban Structure defines the area as 'Castletroy/University gateway'.

5.1.3. **Map 5: Limerick City and Suburbs (in Limerick), including Mungret and Annacotty - Flood Map** indicates that the subject site is in close proximity to lands designated flood zone B – these lands are within the Groody Valley Green Wedge.

5.1.4. **Policy IN P1 Strategic Infrastructure** - It is a policy of the Council to:

(a) Secure investment in the necessary infrastructure (including digital technology, ICT, telecommunication networks, water services, surface water

management, waste management, energy networks), which will allow Limerick to grow and realise its full potential.

(b) Fulfil Limerick's ambition as a contemporary City and Country in which to live, work, invest and visit, with supporting infrastructure whilst complying with the relevant EU Directives and national legislation, including the protection of the environment.

5.1.5. Section 8.4.2. **Telecommunications Support Structures, Antennae and Domestic Satellite Dishes** in the development plan recognises the importance of high-quality telecommunication infrastructure.

5.1.6. **Objective IN O5 Telecommunications Support** - It is an objective of the Council to:

a) Promote shared telecommunications infrastructure in all new developments to facilitate multiple network providers. Shared infrastructure should be made available to all broadband service providers on a non-exclusive basis to both suppliers and users of the new infrastructure.

b) Work closely with the telecommunications industry during the development and deployment phase of telecommunications infrastructure to carefully manage Limerick's road networks and minimise future road infrastructure works.

c) Require co-location of antennae support structures and sites where feasible. Operators shall be required to submit documentary evidence as to the non-feasibility of this option in planning applications for new structures.

d) Facilitate the public and private sector in making available where feasible and suitable, strategically located structures or sites, including those in the ownership of Limerick City and County Council, to facilitate improved telecommunications coverage if the need is sufficiently demonstrated.

e) Require best practice in both siting and design in relation to the erection of communication antennae and support infrastructure, in the interests of visual amenity and the protection of sensitive landscapes. There is a presumption against

the location of antennae support structures where they would have a serious negative impact on the visual amenity of sensitive sites and locations.

f) Require the de-commissioning of a telecommunications structure and its removal off-site at the operator's expense when it is no longer required.

g) Apply a presumption against erecting satellite dishes where they would materially affect the character and appearance of a Protected Structure, an Architectural Conservation Area (ACA) or in any other area where they could cause unacceptable effects on visual amenity.

h) Ensure the orderly development of telecommunications throughout the County in accordance with the requirements of the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DECLG, 1996, except where they conflict with Circular Letter PL07/12 which takes precedence and any subsequent guidelines.

5.2. Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities (1996)

5.2.1. The 'Telecommunications Antennae and Support Structures' (1996) guidelines set out government policy for the assessment of proposed new telecommunications structures ('the 1996 Guidelines'). The aim of the 1996 Guidelines is to provide relevant technical information in relation to these installations and to offer general guidance on planning issues so that the environmental impact is minimised and a consistent approach is adopted by the various planning authorities in the preparation of their development plans and in the operation of development control.

5.2.2. Section 4.3 of the 1996 Guidelines refers to visual impact and states it is among the more important considerations which have to be taken into account in arriving at a decision on a particular application. It advises that great care will have to be taken when dealing with fragile or sensitive landscapes and that proximity to listed buildings (protected structures), archaeological sites and other monuments should be avoided. In most cases, the Guidelines acknowledge that the applicant will only have limited flexibility as regards selecting a location given the constraints arising

from radio planning parameters. Visual impact will, by definition, vary with the general context of the proposed development.

- 5.2.3. Section 4.3 also recommends that in the vicinity of larger towns and in city suburbs operators should endeavour to locate in industrial estates or in industrially zoned land. The possibilities offered by some commercial or retail areas should be explored whether as rooftop locations or by way of locating “disguised” masts. Only as a last resort, and if the alternatives are either unavailable or unsuitable, should free standing masts be located in a residential area. 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 proposed structure should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure.

5.3. **Circular Letter PL07/12**

Circular Letter PL07/12 revised elements of the 1996 Guidelines under Section 2.2 to 2.7. It advises Planning Authorities to:

- Cease attaching time limiting conditions or issuing temporary durations to telecommunications masts, except in exceptional circumstances.
- Avoid including minimum separation distances between masts or schools and houses in Development Plans.
- Omit conditions on planning permissions requiring security in the form of a bond/cash deposit.
- Not include monitoring arrangements on health and safety or to determine planning applications on health grounds.
- Include waivers on future development contribution schemes for the provision of broadband infrastructure.

5.4. **Circular Letter PL11/2020**

Circular Letter PL11/2020 ‘Telecommunications Services – Planning Exemptions and Section 254 Licences’ was issued in December 2020. It advises planning authorities that:

- Section 254 of the Act outlines the provisions in relation to the licensing of appliances and cables etc on public roads. Where development of a type specified in section 254(1) of the Act is proposed to be carried out on a public road, approval for the works is required from a Planning Authority by means of the obtaining of a section 254 licence.
- Section 254 of the Act outlines the provisions in relation to the licensing of appliances and cables etc on public roads. Where development of a type specified in section 254(1) of the Act is proposed to be carried out on a public road, approval for the works is required from a planning authority, by means of the obtaining of a section 254 licence. However, while a section 254 licence is required for such works, section 254(7) further provides that development carried out in accordance with a licence issued under section 254 shall be exempted development for the purposes of the Act i.e. it is therefore exempted from planning permission.
- The exemptions for telecommunications infrastructure along public roads do not apply:
 - (a) where the proposed development is in sensitive areas where there is a requirement for Appropriate Assessment.
 - (b) where the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users.

5.5. **Guidance on Potential Location of Overground Telecommunications**

Infrastructure on Public Roads (1st Edition 2015) (the Green Book) (Non-statutory draft guidance as published by CCMA, NRA, Department of Transport, Tourism & Sport, Department of Communication, Energy & Natural Resources).

This report addresses the engineering appropriateness of siting telecommunications equipment on the roads network. It is highlighted that the report does not deal in depth with associated planning issues. It clarifies that items listed as potential opportunities in this report should not be considered to be definitive, as issues with

respect to the implementation of the planning legislation will need to be taken into consideration and discussed with the relevant planning authorities.

Table A sets out consideration of opportunities to facilitate telecommunications infrastructure on the roads network. For the urban road category it is stated that:- *“opportunities are generally limited to locations where a wide verge or footpath allows the accommodation of small cabinets/antennae and/or the erection of stand-alone poles to accommodate telecommunications infrastructure”*. In addition, it is included in the comment’s column of Table A that stand-alone poles are the preferred option in urban areas, as there are ongoing maintenance issues relating to accommodating electronic equipment on lighting columns. Section 8.1.1 of the guidance relating to urban regional and local roads notes that on a footpath, any proposed telecommunications equipment would need to be located so as not to create a hazard for pedestrians including those with prams, or wheelchair users.

5.6. Natural Heritage Designations

There are no designated European sites within the vicinity of the site. The Lower River Shannon SAC (Site Code 002165) is located approximately 1km north from the subject site.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been received against the refusal to grant a licence. The submission made by Charterhouse as agent for Vantage Towers Limited (subsidiary company from the Vodafone Group) can be summarised as follows:

- The proposal is a discreet installation, set back from the pavement beside a fenced wall, on the side of a tree lined road and away from nearby properties. It is submitted that the structure would not detract from the visual amenities of the area or lead to unnecessary visual clutter.
- The proposal is within a predominately student area for Limerick University and provides important coverage to the area. It is submitted that a blackspot has been identified within the Groody area, mainly due to high demand from students. The target areas for service improvement are the various student

accommodation buildings in the immediate vicinity (including Brookfield Hall, Groody Student Park and Courtyard Student village). In addition, the site will bring additional coverage and capacity to the Kilbane, Ballysheedy, Reboge Meadows, Singland and Towleron areas.

- The proposal meets with the requirements of the Development Plan, Guidance on the Potential Location of Overground Telecommunications Infrastructure on Public Roads and National Policy.
- It is stated that there is no existing infrastructure available that is able to provide the required propagation of services necessary for Groody and the surrounding area. Alternative locations (As shown on Figure 6: Land Registry Plan showing suggested alternative location as an access route page 7 of the first party appeal submitted by Charterhouse Infrastructure Consultants) were considered in consultation with the council further south along Groody Road, however, the subject site location identified as most suitable as it is away from direct view of a house and not located on a registered access way.
- The proposed development would comply with the proper planning and sustainable development of the area.

6.2. Planning Authority Response

- None.

7.0 Assessment

The main planning considerations relevant to this appeal case are:

- Visual Impact
- Site Selection (Alternatives Considered and Technical Justification)
- Appropriate Assessment

7.1. Visual Impact

- 7.1.1. The Planning Authority's reason for refusal is based on their consideration that the pole and associated structures would detract from the visual amenities of the area and would lead to unnecessary visual clutter.

- 7.1.2. Objective IN O5 (e) of the development plan requires best practice in both siting and design in relation to erecting communication antennae and support infrastructure, in the interests of visual amenity and the protection of sensitive landscapes. There is a presumption against the location of antennae support structures where they would have a serious negative impact on the visual amenity of sensitive sites and locations. Objective IN O5 (h) of the development plan seeks to ensure the orderly development of telecommunications throughout the County in accordance with the requirements of the *Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DECLG 1996*, except where they conflict with *Circular Letter PL07/12* which takes precedence and any subsequent guidelines.
- 7.1.3. The subject site is zoned 'Open space and recreation' in which telecommunication structures are open for consideration. I acknowledge that the proposed telecommunications mono-pole structure will be noticeable and may cause potential visual impact on the local environment by virtue of its height. Sites such as this, located along the Groody distributor road and adjacent to existing residential area, are particularly sensitive from a visual amenity perspective, having regard to Section 4.3 in the 1996 Guidelines. On the opposite side of Groody Road there are open views across the zoned 'Groody Valley Green Wedge.'
- 7.1.4. Within the Building Height Strategy for Limerick City (Volume 6 of the Limerick City and County Development Plan 2022-2028) Map 5.1: Urban Structure defines the area as 'Castletroy/University Gateway'. I note that there are no sensitive environmental, conservation or scenic view objectives or designations that apply to the site.
- 7.1.5. Due to the proposed position of the mono-pole structure, set back from the footpath edge on the wide green verge, the mast will not be terminating a view along the road and views of the mast along the road will be intermittent and incidental, in that for most of the time viewers will not be facing the mast. From Brú Na Gruadán the mast will be visible from these adjoining properties. The 1996 Guidelines do not detail minimum separation distances to be maintained to residential properties. The Development Plan reflects this approach and does not stipulate a minimum setback. As noted above the mast will be visible from the adjoining properties but I do not consider that the visual impact that would arise would detract from their residential amenities as to warrant a refusal of permission.

- 7.1.6. Taking into account the existing built form, the tree lined nature of Groody Road at this location and the softening effect the existing mature trees within the open space of adjoining residential development Brú Na Gruadán will provide I submit that the extent of the visual intrusion would not be of such magnitude as to be seriously detrimental to the visual amenities of the area.
- 7.1.7. Whilst I acknowledge the proposed structure would be more visible than some of the existing street furniture in the immediate area, including lamp standards, bus stop and rubbish bin, I consider that it would not be so visually disruptive or result in unnecessary visual clutter to the degree that it would seriously injure the visual amenity of the receiving environment. The proposed development would take up a relatively small footprint and many of the views towards it would be softened by existing, mature trees and planting within the open space fronting estate Brú Na Gruadán.
- 7.1.8. The proposed monopole adopts a slender appearance and, in my opinion, the applicant has sought to minimise its potential for visual impact by selecting a slim line galvanised steel monopole with antennas shrouded in matching sheath coloured grey which is typical of telecommunications infrastructure seeking to assimilate with the streetscape.
- 7.1.9. In summary, I do not consider that the proposed development would present as overly dominant, or be an overbearing feature, in this setting and that the applicant has employed appropriate mitigation measures to reduce any such impact. Therefore, I consider the proposal to be acceptable from a visual impact perspective and that it is in accordance with the provisions of the City and County Development Plan, including Objective IN O5 and accords with the 1996 Guidelines.

7.2. **Site selection**

- 7.2.1. Policy IN P1 of the Development Plan seeks to secure investment in the necessary telecommunication networks which will allow Limerick to grow and reach its full potential, subject to compliance with the relevant planning considerations having regard to the 1996 Guidelines.
- 7.2.2. The site is located just inside the boundary of land zoned for open space, as per the Limerick Development Plan 2022-2028 and telecommunication structures are open for consideration under this zoning objective. I am of the view that the subject site,

whilst zoned open space and recreation, comprises a wide verge to the public footpath/cycleway and to grant a licence for the telecommunication structures would not result in a loss of useable open space.

- 7.2.3. I have consulted the Comreg Outdoor Coverage Map for network coverage for the area. Vodafone's 4G coverage (Using your smart phone for data and voice) for the appeal site is showing as 'good'; 3G coverage is 'fringe' which means that there is marginal or poor connections/data speeds with disconnections likely to occur, however it is annotated on the map that Vodafone is phasing out 3G; 2G (Voice calls and text messages) coverage is 'very good' which means that there is a strong signal. Comparing other service providers i.e., Eir the outdoor coverage of 4G is shown as 'very good'.
- 7.2.4. The appellants submission notes that a blackspot has been identified within the Groody area, mainly due to high demand from students. It is stated that the closest Vodafone's site to the proposed site at Groody Road is 0.9km away, however this site is designed to serve Newcastle area and the Dublin Road and due to suburban clutter this site will not provide adequate services into the target areas, in particular indoor services for the student accommodation facilities in the area.
- 7.2.5. The 1996 Guidelines encourages sharing facilities and clustering on existing support structures and requires all applicants to satisfy the authority that they have made a reasonable effort to share. Telecommunication facilities are encouraged to primarily locate within existing industrial estates, or industrially zoned land, in the vicinity of larger suburban areas or towns, insofar as this is possible. There are no industrial estates in the vicinity of the appeal site.
- 7.2.6. Five alternative structures were identified by the applicant using the Comreg site viewer map, of which Vodafone is already represented at three of these sites. It is stated that these three Comreg sites within 1.5km of the appeal site are too far removed to address the coverage issues in the area. The remaining two sites where Vodafone transmits already have been discounted as placing further equipment on these sites would not improve service levels in the target area. Therefore, it is not possible for the applicant to co-locate on an existing telecommunications structure whilst also providing the required improvements in coverage provision.

- 7.2.7. Having reviewed the information contained within the application, appeal submission and the existing coverage information that is available on the Comreg website, I am satisfied that alternative support structures and masts have been considered by the applicant, that the proposal is justified, and that it would help to improve the existing 4G service coverage for the area.
- 7.2.8. As the proposed mono-pole is a slim line design it is unable to be used to support other operators equipment. It is my view, in this particular licence application, taking into account the site context, that the slim line design is the more appropriate design approach for this specific urban road location.

7.3. **Appropriate Assessment**

- 7.3.1. Given the nature and small scale of the development proposed, which is for the construction of a telecommunications monopole, cabinets and ancillary works, and the location of the proposed development within an established urban area, it is considered that the proposal would not be likely to have a significant effect individually or in combination with other plans and projects on a European site and there is no requirement for a Stage 2 Appropriate Assessment.

8.0 **Recommendation**

- 8.1. I recommend that the Board directs the planning authority to grant a licence subject to conditions.

9.0 Reasons and Considerations

Having regard to:

- (a) Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities (1996), as updated by Circular Letter PL/07/12
- (b) Circular Letter PL11/2020 Telecommunications Services – Planning Exemption and Section 254 Licences’ December 2020;
- (c) the relevant provisions of the Limerick City and County Development Plan 2022-2028;
- (d) the number and location of existing appliances, apparatuses, or structures on, under, over or along the public road; and,
- (e) the convenience and safety of road users including pedestrians.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Reason: In the interest of clarity.
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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.

Claire McVeigh
Planning Inspector

20 October 2023