



An
Bord
Pleanála

Inspector's Report ABP 317812-23

Development	Erect a 24m high telecommunications lattice tower together with antennas, dishes and associated telecommunications equipment on the site enclosed by security fencing.
Location	Moyvane North, Newtown Sandes. Co Kerry.
Planning Authority	Kerry Co. Council.
Planning Authority Reg. Ref.	23/610.
Applicant(s)	Vantage Towers Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse to grant permission.
Type of Appeal	First Party.
Appellant(s)	Vantage Towers Ltd.
Observer(s)	None.
Inspector	Breda Gannon.
Date of site inspection	December 15 th , 2023.

2.0 Site Location and Description

- 2.1. The site is located on an elevated ridge c 500m northeast of Moyvane village. Co Kerry. It is located within a large agricultural field at the edge of the village, with access to the site via an existing agricultural track that extends north of Glin Road. The track also provides access to a concrete water tower c44 metres to the south. The area is one of undulating rural landscape with isolated houses in ribbon form along the local road network.
- 2.2. Moyvane is an attractive village and provides a range of services for local residents. The centre is concentrated around the village crossroads which is aligned by two-storey buildings. More recent residential development has occurred along the approach roads.

3.0 Proposed Development

- 3.1. The development as described in the public notices submitted with the application seeks the erection of a 24m high telecommunications lattice structure together with antennas, dishes and associated telecommunications equipment on the site enclosed by security fencing.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to refuse permission on the grounds that the proposed structure would not integrate into the landscape and would contravene Objectives KCDP 11-77, KCDP 11-78 and KCDP 14-82 of the development plan and would therefore be contrary to the proper planning and sustainable development of the area.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The planning officer's report of 19/7/23 notes that there is an existing Vodaphone mast c 3.6km from the subject site and the justification for that mast, which was granted planning permission in 2015, was to improve coverage in the Moyvane area.

The current application now states that the existing mast is inadequate to provide adequate coverage, and this is not considered to be an adequate justification for the proposed development. A second mast within 3.6km of the target area is excessive and it would appear more appropriate to upgrade the existing mast for 4G and 5G coverage.

There are no designated views or prospects in the vicinity of the site and it is not close to any Visually Sensitive areas. The proposed lattice tower is to be sited on the most conspicuous, elevated ground c440 m east of Moyvane Village. The cumulative impact of the 17m water tower and the 24 m lattice tower will negatively impact on the landscape and no landscaping would offset the visual impact generated by the development. The lattice tower, palisade fencing and 3 cabinets are industrial type features, more commonly associated with industrial sites and are not in keeping with the prominent, open and exposed site in a rural area.

Other Technical Reports

None.

5.0 Planning History

I am not aware of any planning history relevant to the subject site.

6.0 Policy and Context

6.1. National Planning Guidance

National Planning Framework – Project Ireland 2040

The NPF generally supports improving local connectivity in terms of broadband and enabling infrastructure that affords communities opportunities to engage with the digital economy.

Objective 24: Support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who live and work in rural areas.

6.2. Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996)

These guidelines set out current national policy regarding telecommunications infrastructure. Guidance is given in respect of matters such as site selection, minimising adverse impact, sharing and clustering of facilities and development management issues. The guidelines are supportive of the development and maintenance of a high-quality telecommunications network and service.

Section 4.3 relates to visual impact and it is recognised that this is among the more important considerations which has to be taken into account in arriving at a decision on a particular application. Care should be taken when dealing with fragile or sensitive landscapes. It is also stated that an applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters etc.

Amongst other things, the Guidelines state that only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns and villages. Where such locations become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The Guidelines advocate sharing of installations to reduce visual impact on the landscape.

6.3. DoECLG Circular Letter PL07/12

This Circular was issued to Planning Authorities in 2012 and updated some of the sections of the above Guidelines including ceasing the practice of limiting the life of the permission by attaching a planning condition. It also includes further advice on the issue of health and safety and reiterates that this is regulated by other codes of practice and is not a matter for the planning process.

6.4. Development Plan

Moyvane is identified as a village in the Listowel Municipal District LAP 2020-2026.

The site lies outside the development boundary for the village and is unzoned. The objectives of the plan seek to encourage increases in population and maintenance of services in the village.

Section 14.9 of the **Kerry County Development Plan 2022-2028** contains objectives on Digital Connectivity and the following are of relevance to the proposed development:

Objective KCDP 14-73: Support the sustainable provision of modern and innovative telecommunications infrastructure at appropriate locations.

Objective KCDP 14-79: Achieve a balance between facilitating the provision of telecommunication infrastructure in the interests of social and economic progress and sustaining residential amenity and environmental quality.

Objective KCDP 14-80: Ensure that the location and provision of telecommunication infrastructure should minimise and/or mitigate any adverse impacts on communities, public rights of way and the natural environment.

Section 11.6 of the plan is dedicated to Landscape. There are two landscape designations for the county which include 'Visually Sensitive Areas' and 'Rural General', with the latter considered to have a higher capacity to absorb development.

The site is located within an area designated 'Rural General' (Map A Landscape Designation) and there are no listed views or prospects in the vicinity. Under the provisions of the plan, it is stated that it is important that development in all areas be integrated into its surroundings and that development outside of designated areas, should, in their designs take account of the topography, vegetation, existing boundaries and features of the area.

Objective KCDP 11-77: Protect the landscapes of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.

Objective KCDP 11-78: Protect the landscapes of the County by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area. Any development which could unduly impact upon such landscapes will not be permitted.

Volume 6 of the Plan contains **Development Management Standards and Guidelines**. Section 1.14.1 (Telecommunication) provides guidance on planning

applications for telecommunications infrastructure. In addition to advice on co-location and sharing of facilities, it highlights the need to safeguard the urban and rural environment. It states:

‘Every effort should be made to locate telecommunications masts in non-scenic areas or in an area where they are unlikely to intrude on the setting of, or views to/from national monuments, protected structures or sensitive landscapes. The preferred location for telecommunications antennae is in industrial estates or land zoned for industrial use or in areas already developed for utilities’.

6.5. **Natural Heritage Designations**

The Lower River Shannon SAC (Site Code: 002165) lies to the west.

6.6. **EIA Screening**

6.7. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

- The reason for refusal is unreasonable and if applied to every development would prevent the economic growth of the country.
- A key reason for the refusal is a misunderstanding of the technology and the capabilities of modern services 4G and 5G.
- Technology has grown from 2G through 3G, 4G and the rollout now is for both enhanced 4G services and modern 5G services. With each new technology, the coverage area has reduced.
- Following the gradual take-up of 5G services, demand is expected to grow at an exponential rate as old mobiles and associated equipment are replaced.

There is also an expected jump in 4G and 5G services with the closure of 3G services.

- The greater the demand for a site the smaller the actual coverage becomes resulting in a need for some coverage overlap. This overlap is complicated making site location for new sites very difficult and the closer to the source of demand the better, but this has to be tailored with existing site coverage, gaps and overlaps.
- The investment required to provide a new structure is substantial and is not entered into lightly. The network operators are obliged to meet certain license requirements and must therefore provide services in areas identified as structurally weak and in need of modernisation.
- Through local and national policy the provision of such services are vital for the economy. Telecoms are now regarded as critical infrastructure and utility.
- While Com Reg provide excellent coverage map information, these maps are base on outdoor coverage levels. Indoor levels will be smaller by comparison and will vary with location and topography.
- Moyvane village and the valley towards the river is recognised as a weak coverage area for all operators. Figures 2,3,4,5, & 6 show current 4G and 5G coverage for the three main operators which is weak and substandard. There is a clear and obvious need for significant improvement in these services and 2G. Current signals are unable to reach southwards beyond the village.
- The site was chosen because it is on lands above Moyvane and can therefore secure the necessary line of sight links and target coverage for all the operators with a 24m high structure.
- The existing mast at Bauragoogeen/Barrougeen was granted permission in 2015 under Reg Ref 15/29 (and not 15/259 as stated in the planning officer's report). Today's technology was not envisaged then. The existing structure serves an important purpose providing coverage to the local area and securing network links for other sites. As can be seen from Figure 8 coverage reduces in quality with distance from the site. The immediate area around

Moyvane is fair, with Moyvane village falling under fringe coverage. This is due to topography and shadowing effects.

- Planning permission was also refused for a 24m structure at a site c 965m northwest of the subject site (06/2247) but granted on appeal (219491). For reasons unknown this structure was never built.
- The landscape in question is not designated as visually sensitive and is located well away from these areas (Map A).
- A series of 5 no. photomontages have been undertaken for the purposes of the appeal which demonstrate the visual impact of the structure from different points around the local road network.
- The rural landscape is recognised as being able to absorb such new features. Based on the information provided, the proposed structure will not detrimentally impact on the character, integrity, distinctiveness or scenic value of the landscape and will assimilate into its location.
- Telecommunications structures by their nature must be taller than the immediate surrounds to achieve coverage and therefore a section of the structure will be visible. However, with the nearby tower, surrounding manmade structures such as power poles, lighting, signage and trees and hedges along the roadsides, it is submitted that the development will assimilate well into the local environment.
- The Board is requested to overturn the planning authority's decision to refuse permission for the development.
- As the structure forms an integral part of the overall digital network and a shared service for Vantage and its operators, it is requested that a permanent grant of permission is given for the development.

7.2. Planning Authority Response

No response to the grounds of appeal were submitted by the planning authority.

8.0 Assessment

8.1. Introduction

Having examined all the application and appeal documentation on file, I consider that the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

I consider that the main issues that arise for determination by the Board in relation to this appeal relates to the following:

- Principle of the development
- Justification for the development
- Impacts on the amenities of the area
- Appropriate Assessment.

8.2. Principle of the development

- 8.2.1. The proposed development accords with national and local planning policy which broadly supports the provision and enhancement of broadband and telecommunications infrastructure throughout the country in appropriate locations and subject to planning requirements.
- 8.2.2. The development is consistent with the provisions of the county development plan which recognises the importance of a modern, efficient telecommunication system as a vital element of the County's infrastructure to support the economic and social progress of the County and the revitalisation of towns, villages and rural areas. While growth within the village is currently constrained by the lack of capacity in its public wastewater treatment plant, Moyvane functions as an important service centre for the adjoining rural hinterland. Its future growth and its ability to attain a critical mass of population and to attract future investment and employment could be curtailed by inadequate high-quality communications infrastructure.
- 8.2.3. The proposed development would form an integral part of the overall digital network. It would form an essential element in improving the provision of mobile infrastructure in the village and the wider area. I would, therefore, accept that the proposed development is acceptable in principle in this location, subject to normal planning considerations, which are considered in more detail below.

8.3. Justification for the development

- 8.3.1. The stated purpose of the proposed mast is to provide an improvement in coverage both within the village and the wider rural area around Moyvane. The ComReg outdoor coverage maps submitted in support of the appeal, which show existing coverage for the three operators (Vodafone, Three Ireland and EIR,) indicate that there are gaps in coverage for both 4G and 5G both within the village and in the wider area.
- 8.3.2. The site was chosen due to its elevated position in order to secure the necessary line of sight links and target coverage for all operators. The planning authority concluded that the proposal could not be reasonably justified on the basis of an existing 24m mast located c 3.6km northeast of the village. The grounds of appeal have addressed the issues raised, noting the advancements in technology since the mast was erected which has resulted in reduced coverage areas. Coverage areas would be reduced further by the phasing out of 3G services and a migration towards 4G and 5G. While the existing mast serves an important function and provides good coverage close to the site, this reduces with distance and a poor level of service remains within the village and parts of the surrounding area. I note that no coverage benefits to the blackspot areas would be achieved by providing additional equipment onto the existing structure due to topography and shadowing effects.
- 8.3.3. The Guidelines state that only as a last resort should new support structures be permitted within or in the immediate surrounds of a settlement. With the exception of the existing mast and the adjacent water tower, which was noted to be too low to ensure the necessary coverage, I note that the applicant has not investigated other locations for the proposed development as recommended. While I would accept that a more in-depth analysis of other potential locations would have been useful in terms of clarity and the justification of the proposed location, I accept that the site has locational advantages being close to the area to be served and can achieve the required lines of sight links and target coverage.
- 8.3.4. I also consider, given the constraints posed by radio and engineering parameters, the service provider is well placed to determine the technical suitability of the location and the height required to ensure coverage requirements and signal propagation to target areas. Service providers are not likely to develop additional costly

infrastructure where there is already sufficient coverage or where there is existing infrastructure to co-locate.

- 8.3.5. I would therefore conclude that the applicant has provided a reasonable justification for a new mast in this location to meet existing and future demand for telecommunication services. It will address an identified deficit in coverage and will facilitate co-location by other service providers which is in accordance with the provisions of the development plan and current guidelines. The proposed development would also accord with the objectives of the development plan as it would provide for a significant improvement in telecommunications services in the area, where the coverage is poor, which is of significant importance to the future viability and vitality of the village and surrounding area.

8.4. Impacts on the amenities of the area

- 8.4.1. It is recognised in the Guidelines that visual impact is among the more important considerations which has to be taken into account in arriving at a decision on a particular application. The planning authority consider the site is unsuitable due to its open and exposed nature with little natural screening, which would not facilitate the integration of the development into its surroundings. The proposed mast would be located c15m from the existing water tower and would be c 7m higher.
- 8.4.2. In terms of potential impacts, the site is located in a rural area outside the settlement boundary. It is outside the visually sensitive areas designated within the county and there are no protected views/prospect in the vicinity. It is not located along a major tourist route or close to any designated site and would not intrude on the setting of or views from national monuments or protected structures.
- 8.4.3. The proposed development would be located within a rural area which is considered to have a higher capacity to absorb development. This being said, the mast and associated structure would be located on an elevated ridge above the village and while existing field hedgerows on adjacent lands would screen the lower sections, the upper sections would remain visible.
- 8.4.4. The appeal is supported by a series of photomontages to aid in the visual assessment of the proposal from various locations around the village. From my observations, the mast would be most visible on the approach roads to the village from the north and the east. Views from the north would be intermittent and partially

blocked by roadside hedgerows and the built form of the village. There would be more open views from the approach road to the east where the proposed mast and the existing water tower would be clearly visible. Due to the rolling nature of the topography the impact would not be experienced over long distances and confined to areas relatively close to the site.

- 8.4.5. It is accepted in the Guidelines that an applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters etc. Having regard to the robust nature of the receiving landscape, the suitability of the site from a technical perspective and its location close to the area to be served, I accept that the impact of the development, which would be highly localised, would be acceptable and would not detract significantly from the amenities of the area. I consider that the visual impact that would occur must be balanced against the community wide and economic benefits to the village and wider area. I would not, therefore, be in agreement with the decision of the planning authority that permission should be refused for the proposed development on the basis that it would be contrary to the objectives of the development plan.
- 8.4.6. In terms of impacts on residential amenity, the site is well removed from buildings and dwellings within the village. The closest residential properties front onto Glin Road, with the nearest being at c 170m distance. Having regard to the separation distance between the proposed mast and existing residential properties no significant impacts on amenities are likely to occur. I note that no objections to the proposed development were received by the planning authority or the Board.

8.5. **Appropriate Assessment Screening**

The Galey River to the south of the village is within the Lower River Shannon SAC (Site Code: 002165).

Having regard to the nature of the proposed development, to the absence of emissions therefrom, the nature of receiving environment and the lack of hydrological pathways between the site and the SAC, it is possible to screen out the requirement for Appropriate Assessment and the submission of an NIS.

9.0 Recommendation

On the basis of the above assessment, I recommend that permission for development be granted for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to:

- the National Planning Framework,
- the policy of the planning authority, as set out in the current Kerry County Development Plan 2022-2028, to support the provision of telecommunications infrastructure,
- the objectives of the Listowel Municipal District LAP 2020-2026 relating to the village of Moyvane,
- the Guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July 1996, as updated by Circular Letter PL07/12, issued by the Department of the Environment, Community and Local Government on the 19th day of October 2012,
- the general topography and landscape features in the vicinity of the site,
- the existing pattern of development in the vicinity,

it is considered that subject to the conditions set out below, the proposed development is acceptable in terms of location and would not seriously impact on the landscape or the visual and residential amenities of the area and would, therefore, be in accordance with the proposer planning and sustainable development of the area.

11.0 Conditions

1.	<p>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. 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>Reason: In the interest of clarity.</p>
2.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
3.	<p>Details of the material finish and colour of the telecommunications support structure and associated equipment shall be submitted to and agreed in writing with the planning authority prior to commencement of development on the site.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>Within six months of the cessation of the use, the telecommunications structure and ancillary structures shall be removed and the site shall be reinstated. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interests of the visual amenities of the area.</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.

Breda Gannon
Planning Inspector

08 January 2024