



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319678-24

<b>Development</b>	30.4m high lattice tower, associated telecommunications equipment and all associated site works.
<b>Location</b>	Ballygillaheen, Rosenallis, Co. Laois
<b>Planning Authority</b>	Laois County Council
<b>Planning Authority Reg. Ref.</b>	2360448
<b>Applicants</b>	Vantage Towers Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Neville Conroy Trevor Conroy Margaret Goulding Melissa Young & Cathal Killeen
<b>Date of Site Inspection</b>	5 <sup>th</sup> July 2024
<b>Inspector</b>	Dolores McCague

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.25. Planning Authority Reports.....	4
3.26. Further Information .....	4
3.29. Third Party Observations.....	6
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Telecommunications Antennae and Support Structures .....	9
5.3. Circular Letter PL07/12 .....	9
5.4. Natural Heritage Designations .....	9
6.0 The Appeal .....	9
6.1. Grounds of Appeal .....	9
6.2. Applicant Response .....	13
7.0 Assessment .....	16
7.2. AA Screening .....	17
7.3. The Principle of the Development .....	17
7.4. Laneway.....	17
7.7. Residential and Visual Amenity.....	20
7.8. Nature Conservation .....	20
8.0 Recommendation.....	21
9.0 Reasons and Considerations.....	21
10.0 Conditions .....	22
Appendix 1 – Form 1: EIA Pre-Screening	

## **1.0 Site Location and Description**

- 1.1.1. The site is located at Ballygillaheen, Rosenallis, Co. Laois, between the villages of Killeagh and Rosenallis, north of the Slieve Bloom mountains. The site is located on agricultural land in pasture. The site is elevated with reference to the local road, from which it is separated by hedges. A laneway which rises southwards from the local road, L-2009, provides access. The laneway serves agricultural land and currently provides access to the field via an agricultural gateway. The laneway is narrow and bounded by hedges. The subject site adjoins a hedge which forms the northern field boundary.
- 1.1.2. A long driveway runs from the local road along the laneway, in the field on the opposite side, to serve a recently constructed house to the south west of the site. A number of one-off houses and farm houses front the local road to the north.
- 1.1.3. The site is given as 0.030ha.

## **2.0 Proposed Development**

- 2.1.1. The proposed development, as described in the public notices, comprises: erect a 30.4m high lattice tower together with antennae, dishes, headframe and associated telecommunications equipment, all enclosed by security fencing and proposed access track.
- 2.1.2. The application is accompanied by a letter of consent from the landowner.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The planning authority (PA) decided to grant permission subject to 7 conditions, including:
  - 1. Compliance
  - 2. De-commissioning.

3 The facility shall be operated and maintained to ensure that any emissions arising from the development remain within the International Commission on Non Ionising Radiation Protection Guidelines

4 Co-location.

5 No material change of use.

6 The transmitter power output, antennae type and mounting configuration shall be in accordance with the details submitted with this application and shall not be altered without a prior grant of planning permission.

7 Obstacle light.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

There are two planning reports on the file, the first, 12/12/23, recommending a request for further information, which issued, includes:

- Generally satisfied with compliance with development plan.
- FI on 4 points.

### **3.3. Further Information**

#### **3.4. Further Information Request**

##### **3.4.1. A further information request, issued on 13<sup>th</sup> December 2023, on 4 points (numbered 1, 2, 4 and 5).**

1 legal interest / right of way over the laneway

2 coverage / need

4 statement that the proposed development complies with the International Radiation Protection Association (IRPA) Guidelines.

5 invitation to comment on third party submissions

#### **3.5. Further Information Response**

##### **3.5.1. A further information response was received, 27<sup>th</sup> March 2024, it included:**

A written response letter and enclosures, stating:

A statutory declaration signed by the owner and an accompanying map confirming ownership of the lands and confirming the intention of the applicant to purchase part of the property on a “subject to contract – contract denied” basis. The maps received indicates that the owner of the subject site has a legal right of way over the access laneway.

(a) The applicant indicates that the ComReg mapping shows outdoor coverage and not indoor coverage. Further the coverage in this area is stated to be spill over from other sites, namely a site close to Gorteen to the southwest and an installation at Clonaghadoo to the northeast. It is indicated that the greater the demand the greater the number of installations required. The applicant states that the proposed structure is expected to meet the current demand and foreseeable demand in the catchment area. The applicant indicates that to avoid interference between coverage areas a dominant site is often necessary to control capacity and quality. As such to attach additional equipment to the existing installations will not enhance the coverage provided. Further as demand for these services increases the coverage area will reduce.

At this location, overall 4G coverage is substantially below the required indoor standard for all the operators. For Vodafone, 2G services and 4G services will be the priority services at this location. The applicant also sets out a Market Overview detailing operators, technology, line of sight, infrastructure requirement, the Importance of Modern 5G Technology, Statistics for the Irish Market, and Outdoor v Indoor Coverage.

(b) A Google map image in response to item 2(b) to demonstrate that there are no existing masts or installations within 3km of the subject site.

(c) The applicant indicates that there are no plans to change the existing structures, in response to item no 2. Long term plans will depend on changing technology, demand and lifestyle changes.

A declaration of conformity was received stating that the proposed development has been designed to be in full compliance with the requirements of the radio frequency (RF) public exposure guidelines of the International Commission on Non-Ionizing Radiation (ICNIRP), as expressed in the EU Council recommendation of 12 July

1999 “on the limitation of exposure of the general public to electromagnetic fields (0 Hz to 300 GHz)”.

### **3.6. Third Party Observations**

3.6.1. Third party observations on the file have been read and noted.

## **4.0 Planning History**

None stated

## **5.0 Policy Context**

### **5.1. Development Plan**

Laois County Development Plan 2021 – 2027

Section 10.6 (Telecommunications) identifies that telecommunications infrastructure is critical to advance the economic and social development of the county.

10.6.4 refers to telecommunications masts and antennae

TEL 5 Facilitate the delivery of high-capacity telecommunications infrastructure at appropriate locations throughout the county having regard to the guidelines for “Telecommunications Antennae and Support Structures”, Circular Letter PL07/12, and any updated documents issued by the DoECLG or relevant authority.

TEL 6 Co-operate with telecommunications service providers in the development of infrastructure, having regard to the proper planning and sustainable development of the area.

TEL 7 Adopt a presumption against the location of structures in vulnerable landscapes as identified in the Landscape Character Assessment (Appendix 6) and in areas where views are to be preserved and in areas adjacent to national monuments, sites of archaeological heritage or protected structures.

TEL 9 Encourage co-location of antennae on existing support structures and to require documentary evidence as to the non-availability of this option in proposals for new structures. The shared use of existing structures will be required where the

numbers of masts located in any single area is considered to have an excessive concentration.

TEL 10 Assess proposals for the location of telecommunication structures in sensitive landscapes in accordance with the policies set down within the Landscape Character Assessment.

DM TEL 1 Telecommunication Structures - To facilitate the evaluation of development proposals for the erection of antennae and support structures, applicants/developers/operators will be required to:

Submit a reasoned justification as to the need for the particular development at the proposed location in the context of the operators overall plans to develop a network in County Laois and strive to reduce the number of telecommunication structures by ensuring that ComReg's Code of Conduct is implemented;

Indicate what other sites or locations in the County were considered;

Submit evidence of consultations, if any, with other operators with regard to the sharing of sites and/or support structures;

Where masts are located in areas of high amenity, landscapes of exceptional or high value or international or national importance and high sensitivity as indicated in the Landscape Character Assessment, there

shall be a presumption to provide a "Landscape Impact Report" to allow proper assessment of the visual impact. Surrogate (coniferous trees) shall be considered.

Masts will only be permitted if supported by an acceptable Visual Impact Report.

Furnish a statement of compliance with the International Radiation Protection Association (IRPA) Guidelines (Health Physics, Vol. 54, No. 1(Jan) 1988) or the equivalent European standard 50166-2 which has been conditioned by the licensing arrangements with the Department of Transport, Energy and Communications;

Cumulative effect of dishes in the area should be considered.

Furnish evidence that an installation of the type applied for complies with the above Guidelines.

Cables and wire connections shall be located underground where feasible.

The design of the mast structures should be simple and well finished; monopoles are preferred to latticework types. Where appropriate, masts, antennae and fencing should be in harmony with their surroundings and should be of dull or neutral sky grey colour so as to be less visually obtrusive. Green or black is the preferred colour at ground level.

Subject to visual and landscape considerations, support structures will normally be required to be designed to facilitate the attachment of additional antennae to facilitate colocation. The number of ancillary buildings/containers shall be kept to the minimum and the need for each structure must be clearly justified. They should be located in accordance with the provisions of the DoECLG Guidelines 1996 (or as may be amended).

Restoration plans shall be submitted with the application for when antennae and their support structures are no longer being used and no new user has been identified.

Access roads will be permitted only where they are absolutely necessary.

Where it has been proven that there is a need for new/expanded coverage in a particular area, the applicant shall show that all existing masts and support structures have been examined to determine if the attachment of new antennae to existing structures can provide the coverage required, the applicant shall submit either a Discovery Series Map or similar map type (to be agreed with planning authority) to the scale of 1:50,000, the location of all telecommunication structures within a radius of 1km of the proposed site, indicating the coverage area of the proposed facility and a technical evaluation of the capabilities of these masts to take additional antennae and provide the coverage required be considered.

Listed views include:

Road No. L-03004 in the townlands of Skehannagh, Killagally Glebe, Ballyclare. Southwards towards Slieve Bloom Mountain.



## **5.2. Telecommunications Antennae and Support Structures**

- 5.2.1. These Guidelines for Planning Authorities, 1996, set out the criteria for the assessment of telecommunications structures.

## **5.3. Circular Letter PL07/12**

- 5.3.1. This Circular Letter revises elements of the 1996 Guidelines. In particular, Section 2.2 advises Planning Authorities to cease attaching time limiting conditions to telecommunications masts, except in exceptional circumstances. Section 2.4 advises that the lodgement of a bond or cash deposit is no longer appropriate and instead advises that a condition be included stating that when the structure is no longer required it should be demolished, removed and the site re-instated at the operators' expense.

## **5.4. Natural Heritage Designations**

- 5.4.1. The nearest Natura site is the River Barrow and River Nore SAC (site code 002162) which is located 600m straight line distance north west of the subject site. Slieve Bloom Mountains SPA (site code 004160) is approx. 2.7km, straight line distance, to the south.

## **6.0 The Appeal**

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

- 6.1.1. Four third party appeals have been submitted by: Neville Conroy; Trevor Conroy; Margaret Goulding; and Melissa Young & Cathal Killeen
- 6.1.2. An appeal has been submitted by Neville Conroy, Rearybeg, Rosenallis.

The grounds include:

He along with another local farmer is the registered owner of the private agricultural laneway which is the proposed access for the development. He attaches a copy of the folio LS26510F. There is no registered right of way or easement through his land (a private laneway for agricultural use) for either the landowner or the applicant of

the proposed development and no consent for same has either been requested or given.

The proposed development will substantially change the use of the existing laneway and there is no formal or informal agreement for such access with either the applicant or the landowner of the proposed development.

6.1.3. An appeal has been submitted by Trevor Conroy, Drummond, Rosenallis.

The grounds include:

Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities (1996) states that only in exceptional circumstances should a freestanding mast be located in a residential area. The proposal is located 110m from his dwelling and 250m from the next nearest house.

The applicant's letter refers to other sites considered, but shows no evidence that other sites in the immediate vicinity were considered.

There are several other locations in the locality, both on lands owned by the proposed landowner and other landowners which would increase the set back distance of the development from nearby residences and thereby reduce the overall visual impact of the structure on the landscape.

6.1.4. An appeal has been submitted by Margaret Goulding, Drummond, Rosenallis

The grounds include:

Access is privately owned, 50% owned by appellant, folio LS6494.

No permission was sought or granted for use of the laneway as part of the planning application.

There is no right of way registered on this land folio. This is confirmed in a solicitor's letter attached.

She raised her concerns with Laois County Council. Laois County Council requested further information. A letter from the landowner, Raymond Redmond, submitted in response a 'statutory declaration', states that 'for in excess of seventy years, my predecessors in title and I, together with out licensees and others, have used and enjoyed a right of way at all times and for all purposes...'

The appellant questions the credibility and validity of the declaration for 'all' purposes and at 'all' times.

It should not have been accepted by Laois County Council and was grounds for refusal.

The appellant has farmed here for 46 years.

She and her husband knew Raymond Redmond's father and mother. Their landholding, on which the proposed mast is to be located, was always accessed for cattle and machinery via their farmyard on the L2009 road.

The access opening onto appellant's laneway was only properly formed in recent years and the installation of a farm gate at this opening took place more recently.

In her 46 years farming in this area she never witnessed the use of her laneway by Raymond Redmond or his predecessors for the movement of cattle.

The access via an opening in the boundary of Raymond Redmond's land has only been properly created recently.

Raymond Redmond has used the laneway once or twice per year for transport of his silage to his farmyard. The use of the laneway for agricultural purposes is completely different to the proposed change of use for industrial purposes by Vantage Towers.

For many years, when the other 50% share of the laneway was owned by the previous owner, Maura Brophy, the laneway was significantly overgrown with bushes and brambles and was not accessible with machinery or by foot until this overgrowth was cleared by the Conroy family on its purchase from Maura Brophy.

She questions the site location. Why has Raymond Redmond chosen this site in such proximity to a neighbouring house less than 110m away and not in another part of his lands which could be accessed via his own farmyard laneway?

The applicant failed to address the observations, in his response to the further information request.

The applicant failed to evidence of legal interest in the laneway and the application is invalid.

The accompanying folio map, attached to a solicitor's letter, shows the landownership extending to the middle of the laneway.

6.1.5. An appeal has been submitted by Melissa Young & Cathal Killeen, Drummond, Rosenallis

The grounds include:

Referring to the further information response and the Planner's report the access laneway is privately owned, contrary to the statutory declaration, no right of way is in place nor has permission been given.

no details regarding the route of pipes, cables or other services to the proposed tower have been supplied.

The narrow access laneway is unsuitable for any heavy construction traffic.

Impact on nearby homes has not been evaluated to any credible degree.

The photomontages submitted are taken from the most advantageous viewpoint and do not show the proximity of the development to the nearby dwellings. A longitudinal cross section should have been submitted to show the tower on its elevated site in comparison to the ridge and floor heights of these dwellings.

Appellant has first hand experience of two protected species being present in the townlands of Ballygillaheen & Drummond – bats have been seen in the vicinity and are likely to have long established roosts in the immediate area, and a breeding pair of barn owls (red listed) have been recorded nesting in a nearby derelict farmhouse c.250m north of the proposed tower. No ecological surveys have been carried out, by ecologists who are competent in knowledge of these species, to establish if any adverse effects could occur to them directly or their habitat or food sources.

The site is near the Slieve Bloom Mountains which are a SPA for Hen Harrier. The application does not contain an assessment of the effect of the proposed development, based on its closeness to this area.

The tree screening referred to in the applicant's letter is on another landowner's property and many of the trees are coming to the end of their natural lifespan. There is no guarantee that this limited screening will remain in place for the duration of the proposed development.

Scenic view 010 in the county development plan looks directly at the proposed location.

## **6.2. Applicant Response**

6.2.1. Charterhouse infrastructure consultants have responded on behalf of the applicant to the grounds of appeal.

6.2.2. Legal right to use the laneway

The response to the further information request is referred to, together with the planner's assessment of this issue.

With the submission of the Land Registry Statutory Declaration, it is submitted that the planning requirements have been complied with and if this issue is to be taken any further by the appellants, it is a matter for negotiations and or the courts and not a planning issue. It is submitted that the question of legal interest is outside the remit of the planning decision.

6.2.3. Change of use of the laneway.

Once constructed masts are remotely operated, requiring very little maintenance. On average they may need 4 to 6 inspections per annum and the vehicle used is no larger than a 4 x 4 SUV car.

The construction period is c 20 days. All vehicles are designed to travel along narrow roads with sharp turning points. No changes to the access route will be required. The proposed mast arrives in sections between 4m and 6m long. A construction management plan is put in place in advance of any works.

Due to the infrequency of use the access track across the field will become grassed over within a short period of time.

The proposal will not change the use of the laneway or interrupt farming activities.

6.2.4. Proximity to a residential area.

This was addressed in the further information request response. An inspector's report on file 247800 is quoted.

6.2.5. Visual impact -

This was also considered throughout the application process. Photomontages were provided, it was raised in the further information request and dealt with in the first planning report, which is quoted:

## Siting and Design

The subject site has a stated area of 0.03ha and forms part of an existing agricultural field accessed by way of a private laneway. The subject site sits in a landscape area characterised as a Lowland Agricultural Area and is located 180m off the L-2009, Local Tertiary Road. The site is elevated siting c.8m above the stated level of the laneway close to the junction with the public road, located approximately 150m north of the subject site.

The lands to the south of the site continue to rise. The applicant proposes to construct the new lattice tower on a green field site which currently forms part of an agricultural field. The proposed structure is a 30.4m high lattice structure with associated broadcast antenna, within a fenced compound area with associated cabinets and equipment. A 4m wide stone access track with turning area to the front of the access gates is also proposed. The northern boundary of the site is defined by way of an existing hedgerow with the western boundary of the field within which the site is located defined by mature trees. While both provide a level of screening to the site the proposed tower at 30.4m in height will rise significantly above both. The hedgerow located to the north of the site does screen the compound area.

The applicant has submitted photomontages of the proposed development to demonstrate the visual impact of the development from a number of differing aspects. The photomontages indicate that the tower will be visible across the study area. It is considered that the vantage points selected may not represent the worst case in terms of visual impact. The proposed mast has a relatively narrow triangular footprint and the backdrop provided by the surrounding landscape eliminates a terminating vista to the proposed mast. Furthermore, having regard to the extensive one off housing development along the public road, it is difficult to argue that the receiving landscape is a pristine rural setting. In light of the above the visual impact of the development is not detrimental to the wider area. It is further noted that the surrounding area is not a fragile or sensitive landscape and the lands rising beyond the site to the south provide a backdrop to the development. It is also worth noting that Scenic View 010 of the Laois County Development Plan 2021 –2027, as referenced in one of the third party submissions relates to views from the N80

to the Slieve Bloom Mountains, It is not considered that the proposed development will impact upon this protected vista given its elevation and position in relation to the Slieve Bloom Mountains

One number dwelling is located c.110m to the south west of the site, with a number located on Grove Road within 200 to 300m of the site. Views of the tower will undoubtedly be visible from these properties, however it is not considered that the development will have an overbearing impact on the visual amenities of these properties

#### 6.2.6. Scenic view 010

This was also considered in the planning report which is quoted

it is not considered that the proposed development will impact upon this protected vista given its elevation and position in relation to the Slieve Bloom Mountains

#### 6.2.7. Environmental Impact

The response to the further information request is referred to and quoted.

The proposed development comprises a small area with a concrete base 7 metres square. Any disturbance caused by the development is therefore minimal.

Non-Natura sites cannot be addressed as the area is too wide and beyond the scope of the planning investigation or the remit of this response.

Nevertheless, the landscape of the area has been considered within the assessment process and it is submitted that the overall impact of the proposal does not adversely impact the natural heritage or biodiversity objectives for the area.

The planning authority's AA screening report is also quoted.

#### 6.2.8. Possible other locations:

The site was chosen due to a combination of required 360° coverage and due to the topography of the area.

#### 6.2.9. Coverage requirements – the site is located on a hill with the height and design to accommodate all three of Ireland's operators.

The operators transmit from masts located on the hills to the south. Three Ireland's mast is about 3.2km away and Vodafone and Eir are about 6km away. Each operator has its own dedicated mast. These sites are known as hub sites. They not only provide coverage but are also important link sites for the respective networks. This can be seen from the number of dishes on each mast.

6.2.10. Any coverage over Drummond and the surrounding area is mainly from these structures, generally regarded as spillover due to distance. The quality and capacity is weak. Indoor coverage, which includes vehicles, is weak.

6.2.11. ComReg maps are provided. The need for infrastructure is apparent. When considering the coverage required for indoor services this need is heightened.

6.2.12. Site search – Vantage Towers, with radio frequency engineers produce a site search area report to identify the best and available sites within a given area. This search varies in radius depending on the service coverage, topography and the population demand. For 2G this can be a large area, for 4G this area is smaller and for 5G smaller again. Power connection services are taken into account and occasionally links to existing fibre optics plus access and future maintenance.

The proposed site will offer 2G, enhanced 4G and 5G services.

6.2.13. The topography of Drummond and the surrounding area:

The mountains to the south drop reasonably rapidly towards Rosenallis with the lands spreading northwards being fairly low with very few hills. Slopes down to north and east are shown in Figures 10 and 11. The hill at Ballygillaheen is the only hill available to provide 360° coverage to include a large section of the N80. It provides line of sight to existing services and is of a design and height to accommodate all the operators.

6.2.14. Lack of consultation:

There is no obligation to consult.

## **7.0 Assessment**

7.1.1. I consider that the main issues which arise in relation to this appeal are appropriate assessment, principle of the development, the laneway, residential and visual



amenity and nature conservation and the following assessment is dealt with under those headings.

## **7.2. AA Screening**

- 7.2.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site, there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision.
- 7.2.2. Appendix 2 to this report details my assessment under this heading.
- 7.2.3. There is no likelihood of impact on any Natura site.

## **7.3. The Principle of the Development**

- 7.3.1. There is general policy support for telecommunications infrastructure and for the development of the structures necessary to deliver the required level of service as outlined in Section 10.6 of the County Development Plan, which includes a requirement that need should be justified, that co-location should be encouraged, and that a statement of compliance with the International Radiation Protection Association (IRPA) Guidelines or equivalent standard should be provided.
- 7.3.2. Need is demonstrated in the application details, and this is re-enforced in the appeal submission.
- 7.3.3. The proposal provides for co-location.
- 7.3.4. A statement of compliance with the International Radiation Protection Association (IRPA) Guidelines has been provided.
- 7.3.5. I am satisfied that the proposed development is acceptable in principle.

## **7.4. Laneway**

## **7.5. Ownership**

- 7.5.1. Two of the appellants Neville Conroy and Margaret Goulding, who own land on opposite sides of the laneway, claim that their land ownership extends to the middle of the laneway (ie each of the referenced folios extends along each of their fields for half the width of the laneway), and that no easements or rights of way are registered across the lands. They submit details of their ownerships: folio LS26510F and folio LS6494.
- 7.5.2. Further claims are made regarding the limited and only recent use of the laneway by the owner of the subject site.
- 7.5.3. The landowner, via the applicant, makes counter claims and has made a statutory declaration of his use of the laneway.
- 7.5.4. Arising from the 1975 Supreme Court case *Frascatti Estates v Walker*, it has been accepted, that the planning system is required to protect legal interest by ensuring that a planning application is not made without the knowledge of owners. It is accepted that the planning system has no function in adjudicating on matters of dispute regarding ownership and that the Section 34 (13) provision, quoted in the planner's report, (*A person shall not be entitled solely by reason of a permission under this section to carry out any development*), is sufficient to address the issue.
- 7.5.5. Any assessment of the question of legal interest is outside the Board's remit.

#### 7.6. Use of the laneway

- 7.6.1. It is of concern to appellants that the application lacks detail regarding the impact on the laneway and that the use of the laneway is a change of use.
- 7.6.2. The applicant response states that once constructed masts are remotely operated requiring very little maintenance. On average they may need 4 to 6 inspections per annum and the vehicle used is no larger than a 4 x 4 SUV car. The construction period is c 20 days. All vehicles are designed to travel along narrow roads with sharp turning points. No changes to the access route will be required. The proposed mast arrives in sections between 4 and 6m long. The proposal will not change the use of the laneway or interrupt farming activities. A construction management plan is put in place in advance of any works.

- 7.6.3. In response to the request for further information the applicant stated that the operators transmit from masts located on the hills to the south. These sites are known as hub sites.

It also states:

Line of sight is necessary to connect the cell to the network. Line of sight is a type of propagation that can transmit and receive data only where transmit and receive stations are in view of each other without any sort of an obstacle between them. Once the cell or base station has secured line of sight, then it is able to provide coverage. Therefore, for line of sight, the link dishes need to be located above the surroundings. The Slieve Bloom Mountains are located to the southwest. As mentioned above, Three Ireland operates from a site at 3.8 Km away, near Gorteen at the lower edges of the mountain. Higher up the mountain Vodafone, Eir and Imagine share a mast at just under 6Km away from the proposed site. These structures will secure the line of sight necessary for the operators.

- 7.6.4. Based on the foregoing, it is my understanding that the connection to the existing network will be via microwave dish rather than cabling such that no works will be carried out in the laneway. I note that the site maps show a dotted line along the laneway, but this appears to indicate an access route only.
- 7.6.5. I am satisfied that the construction will have little impact on the laneway. It will only involve it's use as an access. The site is about 160m from the junction of the laneway with the L-2009 and the temporary use for construction, by vehicles no larger than a 4 x 4 SUV car, should be capable of being accommodated without undue disruption to other users.
- 7.6.6. No works to the existing field gateway have been proposed and therefore no works should be carried out as part of the permitted development.
- 7.6.7. I am satisfied that having regard to the infrequent use of the laneway for maintenance, the operational impact on the laneway will be minimal.

## **7.7. Residential and Visual Amenity**

- 7.7.1. The visual impact on residential properties in the vicinity is a concern raised in the grounds of appeal. The proposal is located 110m from the nearest dwelling and 250m from the next nearest house. The Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities (1996) is quoted, with reference to residential areas. The quoted reference states that only in exceptional circumstances should a freestanding mast be located in a residential area. That reference to a residential area, refers to ‘the vicinity of larger towns and in city suburbs’, not to a rural area such as the subject location.
- 7.7.2. The visual impact on this rural area has been addressed in the application documents, in the photomontages provided.
- 7.7.3. As previously noted, the applicant response to the grounds of appeal quotes extensively from the planner’s report. There is nothing in the visual assessment in that report with which I would disagree. In particular regarding Scenic View 010 of the Laois County Development Plan 2021 –2027, which relates to views from the vicinity of Killeagh towards the Slieve Bloom Mountains. This view is from a location so remote from the subject site, as to make it virtually impossible to see the proposed structure from that distance. I am satisfied that the proposed development would not impact on that view.
- 7.7.4. The proposed mast is a structure of substantial height but is not substantial in its mass, being only a narrow lattice tower. A number of dwellings in the vicinity will experience some visual impact. I agree with the planner’s assessment that the visual impact of the development is not detrimental to the wider area.
- 7.7.5. In my opinion visual impact should not be a reason to refuse or modify the proposed development.

## **7.8. Nature Conservation**

- 7.8.1. Issues regarding nature conservation have been raised in the grounds of appeal.
- 7.8.2. It is stated that the application does not contain an assessment of the effect of the proposed development on Hen Harriers, noting its closeness to the Slieve Bloom Mountains SPA.

- 7.8.3. The site synopsis for the SPA states that Hen Harriers will forage up to c. 5 km from the nest site, utilising open bog and moorland, young conifer plantations and hill farmland that is not too rank.
- 7.8.4. Notwithstanding the distance of 2.7km from the SPA, this area of improved grassland is not a suitable foraging habitat, and the loss of a small area of improved grassland is not likely to impact Hen Harriers.
- 7.9. It is stated that Barn owl has been recorded in the vicinity of the site. According to the Birdwatch Ireland website, threats to Barn owls in Ireland include rodenticide poisoning, road collision and habitat loss. There is no loss of hedgerow involved. The loss of a small area of improved grassland, which is not likely to harbour prey, is unlikely to impact Barn owls.
- 7.10. It is stated that bats have been seen in the area. There is no loss of hedgerow involved, bats have a higher tolerance for red visual light than white light, and therefore, notwithstanding the need for a low intensity fixed red obstacle light to be provided, no impact on bats is likely.

## **8.0 Recommendation**

- 8.1.1. In accordance with the foregoing I recommend that permission should be granted, for the following reasons and considerations and in accordance with the following conditions.

## **9.0 Reasons and Considerations**

Having regard to the provisions of the Laois County Development Plan 2021 - 2027, it is considered that, subject to compliance with the conditions set out below, the proposed development, which is necessary for the provision of high quality communications and information technology networks in the area, would not seriously injure the amenities of the area, and would 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, as amended by the further plans and particulars received by the planning authority on the 27th day of March 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2 No works shall be carried out to the existing field gateway.

**Reason:** To clarify the extent of the proposed development permitted.

3 No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage of the site without a prior grant of planning permission.

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

4 The developer shall allow, subject to reasonable terms, other licensed mobile telecommunications operators to co-locate their antennae onto the subject structure.

**Reason:** In order to avoid the proliferation of telecommunications structures in the interests of visual amenity.

5 A low intensity fixed red obstacle light shall be fitted as close to the top of the mast as practicable and shall be visible from all angles in azimuth. Details of this light, its location and period of operation shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public safety.

6 When the structure is no longer required, it shall be demolished, removed and the site re-instated at the operators' expense.

**Reason:** In the interest of clarity.

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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Planning Inspector

21<sup>st</sup> August 2024

## **Appendices**

Appendix 1 EIA screening

Appendix 2 AA screening

Appendix 3 Photographs

Appendix 4 Laois Development Plan 2021 – 2027 extracts.

Appendix 5 Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities (DoE 1996) extracts.

Appendix 6 Site Synopsis - Slieve Bloom Mountains SPA

**Appendix 1 –  
Form 1  
EIA Pre-Screening  
[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	319678			
<b>Proposed Development Summary</b>	Erect a 30.4m high lattice tower together with antennae, dishes, headframe and associated telecommunications equipment, all enclosed by security fencing and proposed access track			
<b>Development Address</b>	Ballygillaheen, Rosenallis, Co. Laois			
<b>1. Does the proposed development come within the definition of a ‘project’ for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	/	
		<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
<b>Yes</b>		Class.....	EIA Mandatory EIAR required	
<b>No</b>	/		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
<b>No</b>	/	N/A		No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....		Proceed to Q.4



4. Has Schedule 7A information been submitted?		
No	/	Preliminary Examination required
Yes		Screening Determination required

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix 2

### Screening the need for Appropriate Assessment Screening Determination

I have considered the project: erect a 30.4m high lattice tower together with antennae, dishes, headframe and associated telecommunications equipment, all enclosed by security fencing and proposed access track, in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located at Ballygillaheen, Rosenallis, Co. Laois which is 600m straight line distance from the nearest Natura site the River Barrow and River Nore SAC (site code 002162) (to the north west); and approx. 2.7km, straight line distance from the Slieve Bloom Mountains SPA (site code 004160) to the south.

The proposed development comprises a concrete base of 7 metres square, a 30.4m high lattice tower together with antennae, dishes, headframe, associated telecommunications equipment, security fencing and a short section of access track all within an existing agricultural field.

Concerns regarding nature conservation were raised in the planning appeal and are addressed in the Inspector's Report.

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:

- Nature of works e.g. small scale and nature of the development,
- Distance from nearest European site and lack of connections,
- Taking into account screening report/determination by PA.

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.

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