



An
Bord
Pleanála

Inspector's Report ABP-319695-24

Development	Construction of telecommunications structure with all associated site works.
Location	Laghta (Townland), Kinlough, Co. Leitrim
Planning Authority	Leitrim County Council
Planning Authority Reg. Ref.	22215
Applicant(s)	Vantage Towers Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Vantage Towers Limited
Observer(s)	Victoria and Karol Warnock Noel and Martina McGowan Kevin McGowan

Date of Site Inspection

21st November 2024

Inspector

Ronan O'Connor

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1.0 Introduction

- 1.1.1. This case is a remitted appeal. The previous reference was ABP-316566-23. By Order of the High Court, perfected on the 1st May 2024, the Board's decision on same was quashed and the case was remitted back to the Board for further consideration and determination.

2.0 Site Location and Description

- 2.1. The appeal site, which has a stated area of 0.0596 hectares, is located to the west of the settlement of Kinlough, just outside of the defined development boundary. The appeal site is part of an existing field with the main body of the site located at the south eastern corner of the existing field and along its eastern boundary (proposed access track). The site is accessed off an existing laneway that serves agricultural lands and a number of existing dwellings and links into the public road to the east of the site. The nearest dwelling is located approximately 100m to the east of the northern boundary of the site (at it's closest point) off the same laneway providing access to the site. The boundaries of the site are defined by existing hedgerow along the eastern and southern boundaries and no existing boundaries to the north or west. The site rises gently from north to south, from +37m A.S.L to +40m A.S.L. at near the site of the proposed mast.

3.0 Proposed Development

- 3.1. Permission is sought to erect a 24m high lattice telecommunications support structure together with antennas, dishes and associated telecommunications equipment, all enclosed in security fencing with a new access track.

4.0 Planning Authority Decision

4.1. Decision

Refuse Permission [decision date 3rd April 2023] for 1 no. reason as per below:

1. On the basis of the information submitted with the planning application, the Planning Authority is not satisfied that sufficient and compelling evidence has been

presented demonstrating that this site is the most suitable site available in proximity of the village of Kinlough which could accommodate the proposed development. In particular, the Planning Authority considers that there is an alternative location within the landholding from which the development is proposed which would increase the separation distance from all sensitive receptors and improve visual assimilation of the structure into the receiving landscape. Furthermore, the Planning Authority are not satisfied that the option of co-locating on the existing Garda Station mast or adding a headframe was adequately considered. In this regard the proposed development has not therefore demonstrated sufficient regard for the *Telecommunications Antennae and Support Structures-Guidelines for Planning Authorities*, (Department of the Environment, July 1996) which requires that only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. Further, the proposed development is considered contrary to TEL POL 4 of the Leitrim County development Plan 2023-2029 which seeks to ensure that telecommunications structures are located to minimise and/or mitigate any adverse impacts on communities, residential properties, schools and the built or natural environment. The proposed development 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 Planner's Report on the application [dated 29th November 2022] is summarised below:

Siting

- Notes that proposal accords with the Enterprise & Employment zoning designation [under the designations of the previous Development Plan].
- Reference is made to the [then] Draft Leitrim County Development Plan 2023-2029 which sees the site falling outside the Development Plan boundary for the village.

- Notes that the Four Masters Primary School is located 200m from the proposed structure.
- Social and Community land use lies 80m south of the proposed structure.
- Development Plan states that there is a presumption against granting permission for the siting of masts or antenna within the vicinity of smaller towns or villages or within a residential area/within the vicinity of schools or private dwellings.
- Not considered that the application has demonstrated that the proposed location is the optimum of most appropriate location for the structure/FI required in relation to same.
- OS Map required indicating all buildings in the vicinity of the Development/including separation distances.

Public Health

- Statement of compliance with IRPA Guidelines or equivalent has not been submitted nor has evidence that the installation meets these Health and Safety guidelines. Further Information was requested in this regard.

Visual Impact

- Located within an open landscape and will be highly visible and intrusive on the village.
- Potential dominance of the structure on the landscape and overbearing influence on the nearby school has not been addressed.
- No visual impact report submitted and FI required in relation to same.
- Need for height has not been justified/no assessment on the impact on visual amenities.

Justification

- Have not provided evidence that alternative sites have been researched/this is the only location possible to meet sufficient requirements.
- Reference is made to the existing lattice structure located to the rear of the Garda Station which is located 400m from the proposed structure and additional details in relation to the potential for co-location on this structure required.

- Noted that Three Ireland are already facilitated on the Garda Station Mast. EIR are also identified on the ComReg SiteViewer as being active on this structure.
- Eir website coverage mapping demonstrates full 4G coverage in this area.
- Applicant identifies 3 no. operators co-locating on the mast. This is considered misleading as the operators are already facilitated within the village.
- FI recommended.

4.2.2. Further Information was requested on 30th November 2022 in relation to the following items/issues:

1. OS map indicating all buildings within the vicinity of the proposed development, separation distances and land uses.
2. Details of alternative sites considered.
3. Elevation drawings identifying equipment that is within the control of the applicant.
4. Visual Impact Report.
5. Construction stage Traffic Management Plan.
6. Site layout plan indicating vehicle tracking and swept path analysis.
7. Statement of compliance with IRPA Guidelines or equivalent.
8. AA Screening Report.
9. Response to third party submissions.

4.2.3. Further Information was received on 27th February 2023. The PA was of the view that this constituted Significant FI and requested new public notices. Details of same were submitted to the PA on 13th March 2023.

4.2.4. The Planner's report [dated 30th March 2023] is summarised below:

- Note that the *Leitrim County Development Plan 2023-2029* came into effect on the 21st March 2023 and relevant policies of same are set out.
- Notes that the site is not zoned in the said Plan.
- Outside the settlement boundary for Kinlough.

- Reference made to similar application made by the applicant approximately 680m to the east of the subject site. Noted that this application was withdrawn.
- There are other locations in the area where the required line of sight can be achieved and the applicant has not provided sufficient justification for the proposed location.
- No effort has been made to disguise or assimilate the structure into the receiving landscape.
- Applicant has not provided satisfactory evidence that at all alternative sites have been adequately researched/considered.
- No details of discussions with OPW or Shared Access have been submitted (in relation to existing Garda Lattice Tower).
- Letter of support from Imagine. However, no third operator support has been provided. It was considered that sufficient justification for the design of the proposed structure has not been provided.
- Have not provided the required information in relation to public health.
- Issue of visual impact has not been addressed.
- Have not provided a construction stage traffic management plan and that a site layout plan showing construction traffic movements has not been provided.
- Applicant has not sought to amend or incorporate any mitigation in response to third party submissions.
- Recommendation was for refusal.

4.2.5. Other Technical Reports

North Leitrim District Engineer [report dated 4th November 2022] – Seeks further information in relation to (i) a construction stage traffic management plan (ii) vehicle tracking and swept path analysis.

4.3. Prescribed Bodies

- 4.3.1. Irish Aviation Authority [received 24th October 2022] – No requirement for obstacle lighting.

4.4. Third Party Observations

127 no. submissions were received. The issues raised are summarised in the Planner's Reports and are also summarised below:

- Proximity to school and existing houses
- Health impacts
- Co-location with existing telecommunication infrastructure
- Adequate capacity existing.
- Contrary to Development Plan Policy
- Devaluation of property
- Traffic impact/inadequate access
- Impacts on biodiversity and environment

5.0 Planning History

On Site

ABP-316566-23 – Telecommunications Mast – By Order of the High Court, perfected on the 1st May 2024, the Board's decision on same was quashed and the case was remitted back to the Board for further consideration and determination.

Wider Area

Reference is made within the Planner's Report to the following :

PA Ref 21/223 Vantage Towers Ltd – applied for permission for a 30m telecommunications tower in Kinlough Village, approximately 680m to the east of the subject site. This application was withdrawn on 07/12/2021.

6.0 Policy Context

6.1. National Planning Framework – Project Ireland 2040

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.’

Objective 48 – ‘In co-operation with relevant Departments in Northern Ireland, develop a stable, innovative and secure digital communications and services infrastructure on an all-island basis.’

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

The guidelines aim to provide a modern mobile telephone system as part of national development infrastructure, whilst minimising environmental impact. Amongst other things, the Guidelines advocate sharing of installations to reduce visual impact on the landscape.

4.3 – Visual Impact - The guidelines note that visual impact is one of the more important considerations which have to be taken into account and also that some masts will remain quite noticeable in spite of the best precautions.

It is noted that ‘Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation’.

It is further noted that ‘Only as a last resort ...should free-standing masts be located in a residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support 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’.

4.5 – Sharing Facilities and Clustering – Applicants will be encouraged to share facilities and to allow clustering of services and will have to satisfy the Planning Authority that they have made a reasonable effort to share.

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 reiterates the advice in the 1996 Guidelines that planning authorities should not determine planning applications on health grounds and states that, *'Planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process.'*

6.4. **National Broadband Plan (2020)**

The National Broadband Plan (NBP) is the government's initiative to deliver high speed broadband services to all premises in Ireland. This will be delivered through investment by commercial enterprises coupled with intervention by the State in those parts of the country where private companies have no plans to invest.

6.5. **The Digital Connectivity Strategy for Ireland 2022**

The purpose of this Digital Connectivity Strategy is to set out the targets that will be achieved by the telecommunications sector in providing digital connectivity across the State and to identify the key enablers that will be implemented to ensure these targets are met, including *inter alia* to encourage commercial investment in energy efficient solutions, network integrity and security, and supporting and facilitating the modernization of existing networks and transition to Gigabit and 5G networks and ensure that the regulatory framework encourages investment, promotes infrastructure competition, and supports innovation in emerging technologies.

The Digital Connectivity Strategy is focused on enablement of the telecommunication infrastructure and services that delivers digital connectivity.

6.6. **Our Rural Future: Rural Development Policy 2021-2025**

The Government's vision is for a thriving rural Ireland which is integral to our national economic, social, cultural and environmental wellbeing and development, which is built on the interdependence of urban and rural areas, and which recognises the centrality of people, the importance of vibrant and lived-in rural places, and the potential to create quality jobs and sustain our shared environment.

The document sets out a number of thematic objectives and includes *inter alia* to optimise the opportunities for rural communities from high-speed broadband.

6.7. **National Biodiversity Action Plan 2023-2030**

The NBAP includes five strategic objectives aimed at addressing existing challenges and new and emerging issues associated with biodiversity loss. Section 59B(1) of the Wildlife (Amendment) Act 2000 (as amended) requires the Board, as a public body, to have regard to the objectives and targets of the NBAP in the performance of its functions, to the extent that they may affect or relate to the functions of the Board. The impact of development on biodiversity, including species and habitats, can be assessed at a European, National and Local level and is taken into account in our decision-making having regard to the Habitats and Birds Directives, Environmental Impact Assessment Directive, Water Framework Directive and Marine Strategy Framework Directive, and other relevant legislation, strategy and policy where applicable.

6.8. **Development Plan**

Leitrim County Development Plan 2023-2029

The *Leitrim County Development Plan 2023-2029* came into effect on the 21 March 2023. The following sections, policies and objective are relevant in the assessment of this application.

Telecommunications

Section 9.18 (Telecommunications) The Council recognises the importance of advanced communications infrastructure for an information-based society, and as a key support for business, education and research.

The Council will support and facilitate the provision of advanced communication networks and services to the extent required to contribute to national, regional and local competitiveness and to attract inward investment. The Council will also encourage the further co-ordinated and focused development and extension of telecommunications infrastructure including broadband connectivity in the county, particularly in the Tier 2A and 2B Towns, as a means of improving their economic competitiveness. The Council considers the provision of a state of the art telecommunications network to be critical in addressing the county's peripherality and will seek to ensure the county is served by the most up-to-date technology available. The Council will seek to achieve a balance between facilitating the provision of telecommunications services in the interests of social and economic progress and protecting residential amenities and environmental quality. The Council will have due regard to the guideline issued by the Department of the Environment, Heritage and Local Government, 'Planning Guidelines for Telecommunications Antennae and Support Structures' (1996) and Circular Letter PI 07/12. The assessment of individual development proposals will be governed by the criteria contained in contained in the Development Management chapter of this Plan.

TEL POL 1 To promote and facilitate the provision of a high quality telecommunications infrastructure network throughout the county having regard to the requirements of the *"Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities"*

TEL POL 2 To support service providers in the development of key telecommunications infrastructure.

TEL POL 3 To support the delivery of high capacity Information Communications Technology Infrastructure, broadband connectivity and digital broadcasting, throughout the county, in order to ensure economic competitiveness and in enabling more flexible work practices.

TEL POL 4 To encourage co-location of antennae on existing telecommunications 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 POL 5 To ensure that telecommunications structures are located to minimise and /or mitigate any adverse impacts on communities, residential properties, schools and the built or natural environment.

TEL OBJ 1 To ensure that all areas of the county have adequate mobile communication coverage and in particular to require service providers to provide services in areas where existing coverage is poor.

Chapter 13 Development Management Standards

Section 13.20.3 Telecommunications and Supporting Infrastructure

Proposals for telecommunications antennae and support structures will be assessed in accordance with the '*Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities*' (DoELG, 1996), as revised by Circular Letter PL 07/12, and any other publications and material as may be relevant in the circumstances.

Planning applications for new facilities should include:

- A reasoned justification regarding the need for the particular development at the proposed location. This shall detail the significance of the proposed development to the telecommunications network, including a map of the area and existing coverage in the area. A technical explanation shall be provided of the reasons why coverage cannot be provided by existing antennae
- Details of efforts (i.e. written correspondence) made to share installations or co-locate/cluster with existing structures; this should reference a map showing the location of all existing structures within a minimum 2km radius of the proposed site
- Evidence of consideration of alternative sites and explanation of their unsuitability
- Visual impact assessment and mitigation measures (e.g. landscape screening, colour treatment of masts/antennae), and
- Any impacts on rights of way and walking.

Landscape/Protected Views and Prospects

Table 11.8/Volume 3 - Map 10 Landscape Designations (Volume 3); Map 11 Protected Views and Prospects

LD POL 1 To safeguard the protected views and prospect contained in Table 11.8 and identified on Map No. 11 (Volume III - Book of Maps) from intrusive development which would interfere unduly with the character and visual amenity of the landscape.

6.9. Natural Heritage Designations

- 6.9.1. The nearest NPWS designated areas are Lough Melvin pNHA (Site Code 000428) and Lough Melvin SAC (Site Code 000428) which are both located approximately 1km to the east of the site at the closest point.

6.10. EIA Screening

- 6.10.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. Therefore, the requirement for EIA can be screened out. Please see Form 1 in Appendix 1.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. A first-party appeal was received on 28th April 2023. The Grounds of Appeal are set out below:
- Sets out justification for the proposed development/demand is growing for same.
 - Proposed structure will be used initially by Vodafone and Imagine Communications and is designed for all three mobile operators.
 - Technology requires additional sometimes bulkier equipment.
 - 'Line of sight' can be secured at this location, as detailed in the appeal submission.
 - Proposed height of 24m is the minimum necessary to secure the links.
 - A lattice design enables a number of dishes to be located towards the top of the frame for use by each operator. Therefore a lattice structure is required in this instance.

- Note that the mast sections are no longer than 6m in length/do not create difficulties with access or with the road network.
- Network operators must provide services in areas identified as weak and therefore this mast is regarded as critical infrastructure.
- 3G networks will be turned off by operators and so will impact areas with inadequate 4G and 5G such as Kinlough.
- ComReg mapping is based on outdoor coverage. Indoor levels will be smaller by comparison therefore it is more important to be close to the source of demand.
- Kinlough is disadvantaged by poor communications coverage.
- The applicant does not have control of the Garda Mast. In addition, there are sensitivities surrounding this site such as school, registered monument, Church etc. Any changes to mast may be contentious and is therefore not a realistic option.
- The applicants refer to the withdrawn application PA Ref P21/226 and note the number of objections and change of mind of the site owner. It is set out that therefore other sites have been examined.
- A site close to Kinlough is required due to the topography of the area.
- Alternative location on the site, as suggested by the Planning Authority, is not suitable. This site is lower by 4m and would require a mast of 30m. The visual impact would be similar if not more dominant. Furthermore, this element of the wider landholding is not available for use for other reasons.
- The proposed site is the only realistic option for the mast, given all of the issues as previously set out the appeal submission. The site can be, therefore, be described as a site of last resort.
- Predicted coverage mapping is provided. It is set out that the chosen site provides better coverage than at the Garda Mast.
- Kinlough is a Tier 2B support town. The Development Plan supports provision of telecommunications infrastructure in such towns.
- Proposal complies with relevant policies of the Development Plan.

- Proposed installation will be fully compliant with the relevant Health and Safety Legislation.
- Health issues are not a planning consideration, as per the Telecommunication Guidelines.
- Site is located away from residential properties and the local school.
- It would be impossible to provide telecommunication services without locating infrastructure in proximity to residential dwellings, towns and villages.
- Equipment and ancillary structures can be coloured green if required/additional landscaping can be added.
- Maintenance of the structure will be minimal.
- Acknowledged there will be some visual impact, albeit intermittently depending on the location and angle of view.
- Is supported by other documents including *inter alia* Project 2040, the National Planning Framework and the National Development Plan, Our Rural Future and Report of the Mobile and Broadband Taskforce
- Lifestyle changes, including working from home. have increased demand for broadband services.

7.2. Planning Authority Response

7.2.1. A response to the appeal was received on 23rd May 2023. I have summarised the contents of same below:

- PA was not satisfied that sufficient and completing evidence has been presented demonstrating that this site is the most suitable site available in proximity to the village of Kinlough.
- Willingness of a landowner to accommodate a mast is an important consideration.
- The site is the most suitable of those in which a landowner is willing to enter into an agreement with the applicants.
- To suggest that the site is the site of last resort is dramatic in the extreme.

- Until the landowner withdrew their support for the previous application, that site was considered the most suitable by applicants.
- Applicants have ignored requests to engage with the OPW or Shared Access in relation to co-location on the existing lattice structure in the village.
- Has failed to submit any evidence that the 6m rule would apply in this instance/no correspondence from OPW or Shared Access.
- It does not suit the applicant to co-locate.
- Not considered appropriate to grant permission on this site until all other options have been exhausted.
- Lack of engagement is contrary to Department Guidelines.
- Proposed development is contrary to the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996) and is contrary to **TEL POL 4** of the Development Plan.

7.3. Observations

7.3.1. 3 no. valid observations were received from:

1. Noel and Martina McGowan [date 23rd May 2023];
2. Kevin McGowan [date 23rd May 2023]
- 3 - Kara Warnock and Victoria Warnock [received 25/05/2023]

7.3.2. The issues raised are summarised below:

- Insufficient evidence to justify the proposed site and the applicant has not addressed concerns raised by the PA.
- No reasonable or factual grounds to support the appeal.
- Does not comply with the Development Plan nor the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities.
- Copy of original observations to PA attached.
- No evidence that the applicant has attempted to co-locate Garda Station mast.
- This location should only be a 'last-resort'.

- No other sites are referred to by the applicant.
- Insufficient information in relation to the visual impact of the proposed development and the information that is submitted is selective in nature.
- The proposal will impact on scenic views.
- No details of parties who carried out the visual impact photomontages. However, the information was clearly prepared by the applicant. Furthermore, it is set out that the location of the site is inaccurate.
- Will be visible for other stated locations which have been omitted from the report.
- Will impact on a number of Protected Views and Prospects as referred to in the Development Plan/ and is therefore contrary to the Development Plan.
- Sited on the most elevated point in the field.
- Would result in an overbearing structure.
- Applicant has not justified the equipment to be included on the structure.
- Does not address issue of radiation exposure and health concerns.
- Insufficient information to carry out an Appropriate Assessment Screening in that no site assessment carried out and the author failed to recognise the presence of a stream along the hedgerow which connects to Kinlough Stream which subsequently discharges into Lough Melvin SAC.
- Impacts on biodiversity.
- Applicant has not provided comprehensive responses to third-part submissions.
- Mast is less than 130m from a house.
- Is close to homes, school/pre-school, creche and other amenities.
- Contrary to Development Plan including Policy 101 as relates to areas of High Visual Amenity.
- Impact on property values.
- Impact of maintenance vehicles.
- Impact on flight paths.

- List of Directors names as set out in the application form is incorrect which is contrary to the Companies Act 2014 and contrary to section 22(1)(b) of the PDA , as amended.
- Precedent for the refusal of such applications – **PA Ref 21/190**.
- It is not true that coverage is weak to non-existing/no demand for the mast.
- Family live less than 150m from the proposed mast.
- Concerned in relation to health implications.

7.3.3. The submission from Noel and Martina McGowan has attached an appendix citing Environmental and Ecological concerns including impacts on hydrology, soils and qualifying interests of Lough Melvin SAC, as well as protected species and invasive species. The submission from Kevin McGowan has attached 3 no. appendices - Appendix 1 Photographs demonstrating potential visual impact of the mast/Appendix 2 – ComReg coverage maps/Appendix 3 Appendix citing Environmental and Ecological concerns.

7.4. Further Submissions

7.4.1. I would note that, following remittal of the case, the Board invited further submissions on the appeal under section 131 of the Planning and Development Act, 2000 (as amended) by way of letter dated 17th May 2024. A total of 5 no. additional submissions were received (1 from the appellant, 1 from the Planning Authority and 3 from the observers on the appeal). I have set out summaries of same below.

Appellant

7.4.2. A submission on behalf of the appellant was received on 5th June 2024. This is summarised below:

- Board decision to grant permission was based on a supported case where low visual impact telecommunications infrastructure was proposed to offer significantly improved coverage to Kinlough and surrounding areas.
- Attached addendum that clarifies that a Stage 2 Appropriate Assessment is not required for the construction or decommissioning of the application structure.

- Proposed development does not materially contravene the Leitrim County Development Plan 2023-2029. Even If the Board were to hold the view that it did, the proposed development can be granted having regard to Section 37(2)(b)(i) and (iii). In this regard, reference is made to market share data and to the Digital Connectivity Strategy.
- Council has contravened its own objectives in refusing permission.
- Applicant has set out in detail why co-location on the Garda Structure is not feasible.
- Applicant has pursued a logical strategy to the rollout of telecommunications infrastructure/has assessed existing Garda Infrastructure, has sought permission on a different site (21/226) which was withdrawn following public opposition.
- Application is not located in a residential area or beside schools and is located in agricultural land where utilities are present.
- Existing high voltage overhead lines with lattice pylons are not dissimilar to the application structure.
- A lattice structure does not have the bulk of a monopole structure/offers greater functionality.
- Board decision to grant permission does not contravene Section 4.3 of the Guidelines and the site is not situated within or in the immediate surrounds of Kinlough.

Encl: Addendum to AA Screening Report

Planning Authority

- 7.4.3. A further submission was received from the Planning Authority on 4th June 2024. The issues raised are as per the original PA response as submitted on 23rd May 2023 and are as summarised in Section 7.2 above.

Observers

- 7.4.4. Further submissions were received from Kevin McGowan [received 6th June 2024], Noel McGown and Martina McGown [received 4th June 2024] and Victoria and Karol Warnock [received on 5th June 2024]. I have summarised same below.

- PA has correctly applied the relevant policies.
- Clear that the PA considered the proposal to be a material contravention of the Development Plan notwithstanding the words ‘material contravention’ are not used.
- Board can only grant permission in the event that the provisions of Section 37(2) apply and none of these circumstances apply.
- PA’s reference to **TEL POL 04** in the reason for refusal is incorrect and the wording corresponds to **TEL POL 05**.
- Insufficient evidence that the applicant has made an attempt to co-located and in this regard reference made to the requirements of Council Directive 201/1972/EC which have been transposed into Irish Law by the European Union (Electronic Communications Code) Regulations 2022.
- Vodafone only operator that has expressed support. Vodafone is the ultimate owner of Vantage Towers Limited (the applicant) and no other operators have indicated support for an additional mast structure at Kinlough.
- No evidence that co-location is not possible and no confirmation from owners or operators of the Garda mast has been submitted. In addition there is no evidence of consultation with ComReg.
- ComReg should be a consultee to these types of planning applications.
- ‘Last-resort’ test has clearly not been met. In this regard, it is noted that the applicant has acknowledged that coverage can be provided from the existing Garda Mast. It is set out that the Board cannot grant permission unless the ‘last-resort’ test is met.
- Correspondence submitted from Shared Access demonstrating that shared access of the Garda Mast is possible.
- Construction of a stand-alone mast would result in an unacceptable proliferation of mast structures in the immediate vicinity of Kinlough.
- Applicant has claimed that the mast can provide coverage across Donegal Bay to areas including Killybegs and Mountcharles. It is set out that this is not relevant as justification for the mast is to provide coverage to Kinlough. In this regard, the

Garda Station mast can provide coverage to Kinlough. It is set out that there is inconsistency in the applicant's rationale.

- Visual Impact Assessment is not comprehensive i.e. there is no view from laneway.
- It is stated that any screening from hedgerows will be insufficient as they are only 2m high.
- Development is very strongly opposed by the Four Masters National School. It is set out that the proposed development will have a visual impact on same and will also impact on future expansion. It is noted that the school has recently received approval for construction of new additional classrooms and a sensory garden and it is stated that when the expansion is completed the school will be closer to the mast. A plan showing the area owned by school is included with the submission.
- School is less than 50m to the east of existing mast and is 200m from the proposed mast.
- Application is opposed by all local community groups.
- Coverage deficiencies are misrepresented by the applicant and the applicant fails to mention that Vodafone has not activated 5G coverage on its other existing telecommunications structures in the area. The applicant therefore cannot reasonably claim to require more masts for 5G coverage.
- Fibre broadband is now fully rolled out in the village since the initial application and there is no broadband deficiency. In this regard, the applicant needs to reconsider its assessment of connectivity requirements.
- Reliance is placed on the ability to achieve land ownership consent for site selection purposes. However, nowhere in the relevant planning policies is this considered to be a factor in site selection and if there are more suitable sites these should be assessed and considered.
- Applicant's reference to Woodland Way is incorrect as there is no such address.
- Lack of assessment of alternative options for structure.
- Possibility of cognitive impacts.
- Would be contrary to Government Guidelines.

- Reference made to journal study in relation to health impacts.

8.0 Assessment

8.1. The main issues that arise for assessment in relation to the appeal can be addressed under the following headings;

- Principle of Development
- Requirement for the Development/Site Justification/Co-Location and Sharing
- Visual Impact/Visual Amenity/Impact on Protected Views and Prospects
- Other Issues

8.2. Principle of Development

- 8.2.1. At a national level, support for the rollout of telecommunications technology, enabling improved mobile and broadband services, is set out in the *National Planning Framework (NPO 24 and NPO 48)*, as well as the *Digital Connectivity Strategy for Ireland (2022)* and *Our Rural Future: Rural Development Policy 2021-2025* (in relation to rural areas such as this one). Support for a modern mobile network is also set out in the *Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996)* and related circular, *DoECLG Circular Letter PL07/12*.
- 8.2.2. In relation to Development Plan Policy, I note that the site falls just outside the development boundary of Kinlough and is unzoned, with reference to Map No. 21 ‘Kinlough Land Use Zoning Objectives Map’ of the *Leitrim County Development Plan 2023-2029*. The Development Plan is generally supportive of rollout of telecommunications infrastructure in order to improve broadband connectivity, including in Tier 2A and Tier 2B towns. Kinlough is a Tier 2B town. However, such support is dependant on protecting residential amenities and environmental quality, with assessment of such applications governed by the criteria in Section 13.20.3 of the Development Plan, including compliance with the *Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities’* (DoELG, 1996) [Hereinafter referred to as “The Telecommunications Guidelines” or “The Guidelines”]. As such, the principle of a telecommunications mast at this location is acceptable in principle, subject to the criteria as set in *inter alia* the Telecommunications Guidelines and the Development Plan. I have considered

compliance, or otherwise, with the Telecommunications Guidelines, and other relevant criteria in the relevant sections of this report.

8.3. Requirement for the Development/Site Justification/Co-Location and Sharing

- 8.3.1. Section 4.3 of the Telecommunications Guidelines note that *inter alia* ‘Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location’. Section 4.5 refers to ‘Sharing Facilities and Clustering’ and the Guidelines set out that applicants will be encouraged to share and will have to satisfy the authority that they have made a reasonable effort to share. The Guidelines also set out, in order to avoid an unnecessary proliferation of masts, owners (i.e. those controlling access to support structures and masts) would be expected to facilitate co-location of antennae with other operators. It is further set out that noted that support structures used by emergency or other essential services are not suitable for sharing with public mobile telephone services.
- 8.3.2. I would note that **TEL POL 1** of the Development Plan seeks ‘To promote and facilitate the provision of a high quality telecommunications infrastructure network throughout the county having regard to the requirements of the *“Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities”*. Section 13.20.3 ‘Telecommunications and Supporting Infrastructure’ of the Development Plan sets out a number of criteria to be considered when assessing applications such as these, including a reasoned justification for the development, details of efforts to secure co-location with existing structures, evidence of consideration of alternative sites, a visual impact assessment and any impacts on rights of way. I have considered compliance, or otherwise, with these criteria below.
- 8.3.3. The applicant has sought to justify the location and nature of the proposed development, and it is set out that the proposed development will provide additional 4G and 5G coverage in Kinlough, which will be of additional importance once providers turn off existing 3G networks. In relation to co-locating on the existing mast at Kinlough Garda Station, it is stated that this would not provide the required coverage for a number of reasons, including that there is insufficient height available,

and that the applicant has no control over this mast. Furthermore, this site has a number of sensitivities including its location close to a school, a registered monument and a church. While the Guidelines state that structures used by emergency services are not suitable for sharing with mobile operators, the applicant has not stated the Garda Station mast is unsuitable for the proposed purpose of the mast in question (i.e. to provide mobile and broadband coverage), and I would note that there is evidence on file that other mobile and/or broadband providers are currently sharing the Garda Station mast, which would demonstrate the suitability, in principle, of the Garda mast for the intended purpose, notwithstanding the contents of the Guidelines.

- 8.3.4. The Planning Authority (PA) are of the view that insufficient evidence has been provided that the site is the most suitable site, and that it has not been demonstrated that the site is a site of 'last-resort'. The PA also stated that there is no evidence of engagement with the owners or management company of the Garda Mast site, and state that the proposal is contrary to the Telecommunications Guidelines.
- 8.3.5. Observers on the appeal echo the views of the Planning Authority, as set out above, and also raise concerns in relation to health issues, and impact on the school building, noting the proximity of the site to same, and the intention of the school to expand. It is also stated that there is sufficient coverage in Kinlough as existing, with mapping including to demonstrated that 4G coverage by various providers is good. Also noted is the roll-out of fibre broadband, and the availability of 5G infrastructure that has not yet been switched on, and that the justification as provided by the applicant is contradictory, citing the coverage provided by the mast for areas in Donegal, rather than solely in Kinlough. It is further contended that the proposed development is clearly a material contravention of the Development Plan, and that the provisions of Section 37(2) do not apply in this instance.
- 8.3.6. In relation to provisions of the Telecommunications Guidelines, I am of the view that the site can be described as being within the immediate surrounds of Kinlough, lying just outside the development boundary, and, as such. the site can be considered a 'last-resort' site, with reference to Section 4.3 of the Guidelines. Therefore, there is additional onus on the applicant to demonstrate that existing sites with utilities have been considered. This would include the Garda Station site, which has an existing mast.

8.3.7. I would accept that there is some deficit of 5G coverage in Kinlough, with mapping included with the appeal indicating that coverage is poor. However, I would note that improved coverage would appear to be possible with the co-location option at the Garda Station mast, and would also serve to achieve the stated aim of the applicant to improve 5G coverage in Kinlough, which is also a stated aim of the Development Plan. However, the appeal submission does not include detailed mapping that allows one to compare the 4G and 5G coverage provided by the Garda Mast and by the mast proposed here, for Kinlough itself, but rather shows comparative mapping for a wider area that includes areas across Donegal Bay (comparing the proposed site to the Garda Mast site). Furthermore, there is no written communication on file to demonstrate that such an option has been examined and has been shown not to be feasible. Such written communication is a requirement of Section 13.20.3 of the Development Plan. I am of the view that there insufficient evidence provided with the application an option of co-locating on the Garda Mast, and other existing utility sites, have been explored in sufficient detail, and I would also note that there is little evidence of other sites being considered, save for the site of the withdrawn application, which was proposed for a site to the east of Kinlough. According to the appeal submissions, this application was not deemed feasible by the applicant due to the withdrawal of support from the landowner and due to local opposition to the planning application. Irrespective of the issue of landownership, I am of the view that additional sites, including existing utility sites, if applicable, should have been considered and evidence provided in relation to same.

8.3.8. Section 4.3 of the Guidelines also note that only *as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools*. While there are a number of houses accessed from the laneway, the nearest being 160m from the proposed mast itself, I would not consider the site to be in a residential area, noting the rural nature of the site. The site is approximately 180m from the boundaries of the existing school site. I note that observers on the appeal have stated that the school intends to expand, and has funding for *inter alia* additional classrooms.. However, this expansion would not appear to take the school site to a location that is directly beside the proposed site, having regard to mapping on file

which detail the extent of lands within school's ownership. As such, I am not of the view that this particular section of the Guidelines are applicable to this site.

- 8.3.9. In relation to potential sharing of the proposed mast, I would note that the applicant has stated it is intended to share the proposed mast with other operators which is as espoused in the Guidelines. However, I am not of the view that the applicant has demonstrated that existing utility sites have been explored in detail, which is a pre-requisite of the Guidelines for 'last-resort' sites such as this one.

8.4. Visual Impact/Visual Amenity/Impact on Protected Views and Prospects

- 8.4.1. Section 4.3 of the Guidelines considers 'Visual Impact'. I would note that the Guidelines suggest that a monopole structure should be favoured over a lattice structure in locations beside residential areas or schools. This is not such a location so, in principle, a lattice structure, such as proposed here, is acceptable in this particular location, subject to other considerations including the visual impact of same. Section 13.20.3 of the Development Plan requires a Visual Impact Assessment to be included with applications for telecommunications infrastructure.
- 8.4.2. In relation to Development Plan policy, and with reference to Map 10 'Landscape Designations' (Volume 3), I would note that the site would appear to fall just outside an area designated 'Area of High Visual Amenity' (Area B1 – Farmed hinterland of Arroo and Tievebaun) and does not lie within same, notwithstanding the views of observers on the appeal.
- 8.4.3. The Planning Authority are of the view that the applicant did not address the issue of visual impact in the application, and state that no effort has been made to disguise or assimilate the structure into the receiving landscape. The reason for refusal refers to an alternative location within the landholding that may be more suitable.
- 8.4.4. Observer submissions are of the view that insufficient information has been submitted in relation to visual impact and that the information that has been submitted is selective (with reference to the Photomontage Views submitted with the application). It is stated that the proposed development will impact a number of Protected Views and Prospects as set out in the Development Plan (in particular Views V3, V4 and V20), and will be contrary to Development Plan policies in relation to same. It is set out that the proposed structure will be overbearing and that any hedgerow screening will be insufficient.

- 8.4.5. The appellant is of the view that the location and height of the mast is necessary to secure sufficient coverage, noting that current technology sometimes requires bulkier equipment and requires siting close to settlements. In relation to the alternative position on the wider landholding, as referred to in the PA's reason for refusal, it is stated that this is unsuitable as it is lower by 4m, requiring a higher mast, and the visual impact of same would be similar if not greater. In any event, it would not appear that this is an option that would be agreed to by the landowner. It is acknowledged that there will be some visual impact, although it is stated that this would be intermittent and dependant on the location and angle of view.
- 8.4.6. I would note that a series of Photomontage Views accompanied the application. This includes 5 no. views from various locations around the site. The mast is shown to be visible from View 2 (545m to the south-east of the site, adjacent to Four Masters National School), View 4 (L60641, 775 m to the north of the site) and View 5 (Local road, 332m to the south-west of the site). In relation to these views, I would note that it is particularly visible from Views 4 and 5, notwithstanding the distance.
- 8.4.7. In relation to the comprehensiveness of the information provided, I note the Development Plan requirement for a Visual Impact Assessment, which has not been provided in this instance. In relation to the information that has been provided, I am of the opinion, that additional views should have been included, for instance a point along the local road directly south of the site (further west from the school) would appear to afford more expansive views towards the site. No views from the local access road have been provided and I note that the mast would most likely be visible from points along this laneway also. I accept that views cannot be provided from every possible vantage point, but notwithstanding, I am of the view that insufficient information has been provided in relation to the overall visual impact of the proposed development, noting in particular the open nature of the surrounding landscape, the elevated position of the site, and the nature of the mast itself, a 24m high lattice structure. While I accept that the Guidelines allow for such a structure in this location, I am of the view that such lattice structures are bulkier and more visually prominent than a monopole type mast, notwithstanding the views of the applicant in relation to same. Furthermore, there is no other indication of how the masts and antennae has been designed and/or adapted for the specific location, as required by the Guidelines.

- 8.4.8. In relation to potential impacts on 'Protected Views and Prospects', Map 11 of Volume 3 details such views. Of note here are View 'V20' (View towards Arroo and Tievebaun Mountains from the farmed hinterland near the coast) and V3' View towards Lough Melvin and Donegal Bay'. Additional details of these views are set out in the supporting report accompanying the Development Plan (Appendix IX– Views and Prospects). While not named in the Development Plan, or the supporting documentation, V20 appears to relate views from the local road running south of Tullaghan, which affords views towards Arroo and Tievebaun Mountains. This is approximately 2.8km west of the application site, but the distance varies. In relation to View 'V3' View towards Lough Melvin and Donegal Bay, this view is described in Appendix IX of the Development Plan, which notes that *inter alia* from a local road at the foot of Arroo Mountain, panoramic views are available of Donegal Bay with the settlement of Kinlough in the foreground. The local road, while again not named, would appear to be a local road running to the south and south-east of Kinlough, approximately 2km south of the site, with the distance again varying. I would note that both views V20 and V3 are not single point views, but are where views are afforded towards the named feature along a particular stretch of local road.
- 8.4.9. I would note that while the Planning Authority have not raised a concern in relation to the impact on these views, an observer submission has raised concerns in relation to impact on same. I am of the opinion that it is possible that the proposed mast would be visible from both of these views (V3 and V20), notwithstanding the distance from same to the site. In relation to V20, I would note in particular the flat nature of the landscape, as referred to in the relevant supporting reports, which would increase the potential of the mast being visible in this view. However, there is insufficient information on file, in my view, to come to a definitive conclusion on same, and even it were visible, there is no supporting documentation that sets out the significance of any potential impact on this Protected View (such as would be included in a Visual Impact Assessment). In relation to V3, again there is potential for the mast to be seen from this view, notwithstanding the distance, although there is insufficient information on file to come to a definitive conclusion on same, and again, even it were visible, there is insufficient information to come to a conclusion on the significance of such visibility on the Protected View. I would note that supporting

policy LD POL 1 of the Development Plan seeks to safeguard such views from intrusive development.

8.4.10. In relation to View 4 (V4) 'View of Lough Melvin from Aghavoghill', I am of the opinion that it is unlikely that the proposed development would impact on this view, noting the position of the proposed mast, relative to same, with the proposed mast lying to the west of the views in question.

8.4.11. In conclusion then, I am of the view that, given the considerations above, there is insufficient documentation submitted in relation to the potential visual impact of the proposal from surrounding vantage points, and in relation to the potential impact of the proposed on Protected Views and Prospects as defined in the Development Plan. In this regard, and having regard to the requirements of the Development Plan, a Visual Impact Assessment is necessary, which set out a formal assessment of potential impacts from the proposed development, including potential impacts from a wide range of potential views, as well as potential impacts from any Protected Views as set out in the Development Plan. While a series of photomontages have been submitted with the application, but this is not visual impact assessment, in and of itself, and is not prepared with reference to any best practice guidance relating to same, nor is the document itself supported by any consideration of the significance of potential impacts resulting from the proposed development.

8.5. Declaration of Conformity and Health Impacts

8.5.1. Section 4.6 The Guidelines set out that, as *'part of their planning application operators should be required to 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 Pre-standard 50166-2 which has been conditioned by the licensing arrangements with the Department of Transport, Energy and Communications and to furnish evidence that an installation of the type applied for complies with the above guidelines.*

8.5.2. In relation to same, a 'Declaration of Conformity with the ICNIRP Public Exposure Guidelines' has been submitted, at Further Information Stage (dated 4th January 2023). While the declaration does not relate to the IRPA guidelines, I am satisfied that this declaration relates to 'equivalent' guidelines, as allowed for by the Telecommunications Guidelines. This declaration relates to Vodafone Equipment

only however, and I note that the mast is intended to be shared with other unnamed operators. However, it would appear that such operators have yet to be identified and I am of the view that it would not be reasonable to require a statement of compliance for equipment utilised by operators as yet unknown. I am of the view that the declaration as submitted with the Further Information documentation satisfies the requirements of the Telecommunications Guidelines. I would also note that any future operators will be required to operate with the relevant legislation in relation to the emissions of non-ionising radiation from such telecommunications equipment. I would also note that the appellant has also set out in their appeal submission that the proposed installation and any associated equipment now or in the future will be fully compliant with the relevant Health and Safety legislation.

8.5.3. In relation to health impacts generally, I would note the contents of the DoECLG Circular Letter PL07/02, which reiterates the advice in the 1996 Guidelines, in that planning authorities should not determine planning applications on health grounds and states that, 'Planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process'.

8.5.4. Therefore, while I acknowledge the concerns expressed within the observations on the appeal, health issues are not a matter for An Bord Pleanála in determining and deliberating on the application proposed here.

8.6. Biodiversity

8.6.1. Potential impacts on biodiversity have been raised as a concern by a number of observers, and 2 no. observers have included an appendix to their submissions setting out environmental and ecological concerns relating to the development. In relation to same, I would note that the nature and scale of the development, in terms of land take, is not such that significant impacts on biodiversity would be expected, nor would significant impacts on soils, geology or water quality be expected. While observers have cited potential impacts on protected species, there is no scientific evidence submitted that the site is of particular importance for such species, nor is there evidence that the scale and nature of the project would have significant

impacts on any species that may be present. I have considered potential impacts on Natura 2000 sites in Section 8 and Appendix 2 of this report.

8.7. Other Issues

- 8.7.1. Material Contravention – An observer on the appeal has stated that it is clear that the PA are of the view that the proposed development materially contravenes the Leitrim County Development Plan, and states that, as such, the Board may only grant permission with reference to the criteria in Section 37(2)(b) of the Planning and Development Act, 2000 (as amended). It is further set out that the proposal does not meet this criteria. In relation to same, I note that, notwithstanding the submissions of the observer, the PA's reason for refusal does not refer to a material contravention of the Development Plan, and, as such, if the Board were minded to grant permission, they can do so without reference to the provisions of Section 37(2)(b) of the Planning and Development Act, 2000 (as amended).
- 8.7.2. Planning Precedents – An observer has referred to a planning precedent for the refusal of such applications (PA Ref 21/190). In relation to same, I note that each proposal is considered on its own merits, and having regard to the particular development proposed and the context of the site within which it sits.
- 8.7.3. Impact on Flight Paths – The submission from the Irish Aviation Authority received [24th October 2022] has confirmed that there is no requirement for obstacle lighting and as such the Board can be satisfied that there will be no impacts on known flight paths.
- 8.7.4. Incorrect Information – An observer on the appeal has stated that the names of Directors of the applicant company are incorrect, and make reference to other areas of legislation in relation to same. I am not of the view that it is within the Board's remit to determine if such information is indeed correct, and I am of the view that such information would need to be taken at face value, noting that, as the observers have done, that there are other areas of legislation that are required to be adhered to in this regard.

9.0 AA Screening

- 9.1.1. Please refer to Appendix 2 (AA Screening) of this report which contains an AA Screening Report where I have concluded the following:

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended), and on the basis of objective information, I conclude that 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. It is therefore determined that Appropriate Assessment (stage 2), under Section 177V of the Planning and Development Act 2000. is not required.

- 9.1.2. This conclusion is based on:

- Standard pollution controls that would be employed regardless of proximity to a European site, and effectiveness of same.
- Distance from European Sites.

- 9.1.3. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

10.0 Recommendation

Refuse permission for the reasons and considerations below.

11.0 Reasons and Considerations

1. It has not been demonstrated that the option of co-locating or sharing existing utilities infrastructure has been explored to a sufficient extent, nor has been demonstrated to the satisfaction of the Board that alternative sites have been examined to a sufficient extent, noting that the site as proposed is considered a site of 'last-resort', under the provisions of *the 'Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996)'*. As such the proposed development is contrary to said Guidelines and is contrary to TEL POL 4 and Section 13.20.3 of the *Leitrim County Development Plan 2023-2029*.

2. In the absence of a Visual Impact Assessment, there is insufficient evidence on file to demonstrate that the proposed mast would not have an adverse impact on the visual amenity of the surrounding area, and to demonstrate that the proposed mast would not have an adverse impact on Protected Views and Prospects, as defined in Table 11.8, Figure 11.4 and Volume III of the *Leitrim County Development Plan 2023-2029*. As such the proposal is contrary to Policies TEL POL 5 and LD POL 1 of the *Leitrim County Development Plan 2023-2029* and is contrary to the requirements of Section 13.20.3 of said plan.

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.

Rónán O'Connor
Senior Planning Inspector

19th December 2024

Appendix 1 Form 1 EIA Pre-Screening

An Bord Pleanála	319695-24		
Case Reference			
Proposed Development Summary	Construction of telecommunications structure with all associated site works.		
Development Address	Laghta (Townland), Kinlough, Co. Leitrim		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
No	X		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
		n/a	
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
		n/a	

5. Has Schedule 7A information been submitted?		

Inspector: _____ **Date:** _____

Appendix 2 – AA Screening

Screening for Appropriate Assessment Screening Determination

Description of the project

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The proposed development comprises the construction of a 24m high lattice telecommunications support structure together with antennas, dishes and associated telecommunications equipment, all enclosed in security fencing with a new access track.

The subject site is located c1.2km west of Lough Melvin SAC (Site Code 000428) at its closest point. The next closest SAC is the Arroo Mountain SAC (Site Code 001403) located c2.5km to the south-west of the site at its closest point. The nearest SPA to the site is the Sligo/Leitrim Uplands SPA (Site Code 004187) which is located c3km south-west of the site at its closest point.

The application has included an Appropriate Assessment Screening Report (dated 27th January 2023) submitted at Further Information Stage, as well an addendum to same enclosed as an addendum to the appellants submission of 5th June 2024. The main body of the report states that, from an examination of aerial photography and relevant mapping, that there are no notable surface water features onsite, and that there is no connectivity from the site to the Kinlough Stream (and hence no connectivity to the Lough Melvin SAC). Impacts on Lough Melvin SAC, and other European Sites are ruled out on the basis of the lack of any connectivity to same, the distance from any European Sites and the nature of the proposed development. The potential for in-combination impacts is also ruled out in the Screening Report. The addendum to the Screening Report (dated 4th June 2024) reiterates that there are no pathways to Lough Melvin SAC or to other European Sites, and further notes that no significant impacts would result from the decommissioning stage.

From my observations on site, there is a drainage ditch that runs along the eastern boundary of the site. There was no running water within this drainage ditch at the time of my site visit (21st November 2024). With reference to EPA mapping, the closest EPA mapped stream is the Laghta Stream which is located c420m to the south-east of the site at its closest point. Kinlough Stream is located c510m to the north of the site at its closest point. Both waterbodies discharge to Lough Melvin (and to the Lough Melvin SAC).

I note the observations on the appeal which have set out that there is insufficient information on the file to carry out an Appropriate Assessment Screening, with the screening failing to recognise that there is a stream adjoining the site which connects to the Kinlough Stream. It is set out that the proposed development will impact on the qualifying interests of Lough Melvin SAC. I have considered these observations in my assessment below.

Potential impact mechanisms from the project

The elements of the proposed development that would potentially generate a source of impact are:

- The construction of the base structure, the mast and the access track to same (construction stage impacts).
- Maintenance of the proposed mast (operational stage impacts)
- Decommissioning of the mast and associated structures and access road (decommissioning stage impacts).

While there is no immediately apparent direct surface water hydrological connection to the Lough Melvin SAC, it is possible that the drainage ditch running to the east of the site adjacent could eventually drain to other surrounding surface water bodies (observers have stated that drainage is to the Kinlough Stream), which could then discharge to Lough Melvin SAC. As such, and notwithstanding the conclusions of the applicant's AA Screening Report, and having regard to the precautionary principle, potential impact mechanisms include those from surface water pollution from construction works (silt/ hydrocarbon/ construction related), resulting in a deterioration of water quality. At operational stage, the spillage of hydrocarbons from

maintenance vehicles could potentially generate a source of impact, as could contaminated surface water runoff from hard standing areas. Potential impacts from decommissioning would be similar to those arising at construction stage.

There is no evidence on file that the site, or the drainage ditch to the east, supports significant populations of otters, a qualifying species of the Lough Melvin SAC, nor is there evidence that the drainage ditches/streams running along the site boundaries support significant populations of salmon, also a qualifying species of the Lough Melvin SAC. Therefore, any potentially significant *ex-situ* impacts on species associated with the Lough Melvin SAC can be ruled out.

In relation to potential impacts on file, there is no other readily apparent hydrological links to other Natura 2000 sites, nor is there any evidence that the site provides an important *ex-situ* habitat for any bird species associated with the Sligo/Leitrim Uplands SPA (Site Code 004187) which is located c3km south-west of the site at its closest point, nor associated with any other SPA. There is no evidence on file that the mast would have an impact on flight paths of such bird species, nor has this been raised as a specific concern by any parties.

There are no other readily apparent impact mechanisms that could arise as a result of this project.

European Sites at risk

Table 1 European Sites at risk from impacts of the proposed project

Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
Indirect surface water pollution	Drainage ditches/streams which may eventually drain to the Lough Melvin SAC via surrounding	Lough Melvin SAC (Site Code 000428).	Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-

	surface water bodies.		Nanojuncetea [3130] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355]

Lough Melvin SAC

With reference to the relevant Site Synopsis document on the NPWS website, Lough Melvin is situated in the extreme north-west of Co. Leitrim, about 4 km south of Bundoran. Lough Melvin is an oligo-mesotrophic lake and is approximately 13 km long by 3 km wide. A number of inflowing and outflowing streams and rivers are included in the site, for instance, the Drowes River links the lake to Donegal Bay. Several large islands occur on the lake. ¹

Step 4: Likely significant effects on the European site(s) 'alone'

Table 2: Could the project undermine the conservation objectives 'alone'		
European Site and qualifying feature	Conservation objective	Could the conservation objectives be undermined (Y/N)?
		Indirect surface water pollution

¹ A full synopsis is available at <https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY000428.pdf>

	(summary) ²		
Lough Melvin SAC			
Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]	To restore the favourable conservation condition of Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea in Lough Melvin SAC	No. see discussion below	
Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]	To restore the favourable conservation condition of Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) in Lough Melvin SAC	No. See discussion below	
Salmo salar (Salmon) [1106]	To maintain the favourable conservation condition of Atlantic	No. See discussion below	

² Full versions are available at https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000428.pdf

	Salmon in Lough Melvin SAC		
Lutra lutra (Otter)	To maintain the favourable conservation condition of Otter in Lough Melvin SAC.	No. See discussion below	

In relation to surface water quality, I would note that the proposed development will be in relatively close proximity to the drainage ditch to the east of the site. However, at construction stage, and at decommissioning stage, standard best practice construction measures will prevent pollutants entering this ditch. Even if these standard construction measures should not be implemented or should they fail to work as intended, the potential indirect hydrological link represents a weak ecological connection, in my view, given the distance to the Lough Melvin SAC (which is greater than 1.2km). As such, any pollutants that should enter the drainage ditch will be subject to dilution and dispersion, rendering any significant impacts on water quality within the Lough Melvin SAC unlikely.

At operational stage, impacts could potential arise from any maintenance of the site. Such maintenance would be low impact however, with few vehicles entering the site over the course of the year. It is unlikely that any significant impacts will arise from same. There is some potential for additional surface water or storm water to enter the drain. As per the discussion above, any contaminants within same would be diluted to such an extent so as to render any potential impacts on water quality with the Lough Melvin SAC unlikely.

I would note that the best practice measures that would be adhered to at construction stage, and at decommissioning stage, are not mitigation measures intended to reduce or avoid any harmful effect on any Natura 2000 site and would be employed by any competent operator, notwithstanding any proximity to any Natura 2000 site.

Having regard to the discussion above, I conclude that the proposed development would have no likely significant effect 'alone' on any qualifying features of the Lough Melvin SAC. Further AA screening in-combination with other plans and projects is required.

Likely significant effects on the European site(s) 'in-combination with other plans and projects'

There is no evidence on file of any plans or projects that are proposed or permitted that could impact in combination with the proposed development and as such no in-combination issues arise.

I conclude, therefore, that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European sites. No further assessment is required for the project.

Overall Conclusion- Screening Determination

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information I conclude that 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. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

This conclusion is based on:

- Standard pollution controls that would be employed regardless of proximity to a European site, and effectiveness of same.
- Distance from European Sites.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.