



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319875-24

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<b>Development</b>	The replacement of a 10-metre-high wooden pole with a 21-metre-high telecommunications monopole and associated equipment
<b>Location</b>	Eir Exchange, Connacht Road, Ballyminoge, Scarriff, County Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	21/1320
<b>Applicant(s)</b>	Eircom Ltd (t/a Eir)
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Refuse to Grant
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Eircom Ltd (t/a Eir)
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Terence Madden</li><li>2. Brendan O'Dwyer</li><li>3. Pierce and Sarah Madden</li></ol>
<b>Date of Site Inspection</b>	15 <sup>th</sup> August 2024
<b>Inspector</b>	Gary Farrelly

## 1.0 Introduction

- 1.1. This report relates to an appeal case that follows a High Court Order (2023 287 JR) dated 22<sup>nd</sup> January 2024. The Board's decision on appeal ref. An Bord Pleanála (ABP)-314689-22 has been quashed and the file has been remitted back to the Board for a new determination. A new file has been assigned with ref. ABP-319875-24.
- 1.2. Under Section 131 of the Planning and Development Act 2000, as amended, notices were issued to all parties of the appeal to invite further submissions due to the High Court Order, the passage of time since the Board's quashed decision and to the Clare County Development Plan 2023-2029 (CDP) now being the adopted Development Plan in place.

## 2.0 Site Location and Description

- 2.1. The subject site is located within the town of Scarriff, County Clare, approximately 180 metres east of Market Square. The subject site comprises of an existing telecommunications exchange building and 2 no. telecommunication poles that currently accommodate Tetra emergency services and Eir equipment.
- 2.2. The proposed development site is bounded by residential properties to the east, north and northwest. Access to the site is via the public road (Connacht Road) which adjoins the site to the south. This road is a designated scenic route within the Clare County Development Plan 2023-2029 (*ref. Number 28, R463 from Tuamgraney to Mountshannon, illustrated on Map Ref. H5, Volume 2 of CDP*). The topography of the site rises from the level of the public road. The north, east and west boundaries of the proposed development site are defined by established hedgerow and tree cover.

## 3.0 Proposed Development

- 3.1. Permission is sought to construct a 21-metre-high monopole with associated antennas and operator equipment. It is also proposed to relocate existing onsite equipment from Tetra Ireland to the top of the 21-metre-high pole up to a height of 23.8 metres. The width of the monopole is measured as circa 0.4 metres near the base of the structure reducing to circa 0.3 metres near the top of the structure (*as measured on drawing no. TCE6004-PL-1.0*).

- 3.2. Permission is also sought to remove an existing 10-metre-high wooden pole to accommodate the monopole and equipment cabinet at the base as well as security fencing (*The description of the development originally stated that the 12 metre high pole was to be replaced, however, at further information stage, it was clarified by the applicant that it was the 10-metre high pole proposed to be replaced and 12-metre high pole will remain in place*).
- 3.3. The submitted appeal documentation includes revised proposals to reduce the height of the structure to 18 metres as an alternative option. A number of photomontages have been submitted illustrating the revised 18-metre height in the context of the surrounding environment.

## 4.0 Planning Authority Decision

### 4.1. Decision

In considering the application, the Planning Authority (PA) sought further information on two issues, summarised as follows:

- The reduction in height of the monopole structure due to the visibility from the R-352 scenic route on approach to the town and to the proximity to residential properties.
- Clarification on the wooden pole to be removed as the submitted site layout plan indicated the removal of the 10-metre-high wooden pole.

After submission of further information, the PA issued a notification to refuse to grant permission for the proposed development, by Order dated 29<sup>th</sup> August 2022, for the following reasons:

1. *The proposal site occupies a visually prominent site in the local streetscape/landscape, directly adjoining a designated Scenic Route. Under the provisions of Objective CDP13.7 of the Clare County Development Plan 2017-2023 (as varied) it is an objective inter alia to ensure that proposed developments are designed and located to minimise their impact and to ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved. It is considered that the proposed development, by virtue of its*

siting and scale, would dominate the eastern approach to Scariff, inherently alter that character of the town and the Scenic Route at this location and have a severe negative impact on the visual amenities of the area. The proposed development would therefore be contrary to Objective CDP13.7 of the County Development Plan and would be contrary to the proper planning and sustainable development of the area.

2. It is an objective, under CDP8.44 of the Clare County Development Plan 2017-2023 (As varied) to facilitate the provision of telecommunications services at appropriate locations within the county having regard to the DoEHLG 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996 (as updated by PL07/12) OF 2012)' The said Guidelines for Planning Authorities state:

*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. 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 latticed tripod or square structure.*

*Notwithstanding the location of the site within an established infrastructure compound, it is considered that the height and design of the structure is excessive having regard to the location in close proximity to a number of residential properties. It is considered that the proposed development would be contrary to both CDP8.44 of the Clare County Development Plan and Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996. The proposed development would therefore seriously injure the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.*

## 4.2. **Planning Authority Reports**

### Planning Reports

There are a total of 2 no. area planner (AP) reports which assessed the principle of the development, traffic issues, public health, visual amenity, residential amenities, built heritage, health and safety issues, flood risk, EIA preliminary examination and AA screening. The first AP report recommended further information for the applicant to reduce the height of the structure and clarification on the wooden pole to be removed. The second AP report considered that the applicant failed to satisfactorily address the PA concerns in relation to the potential visual impacts and recommended refusal which was endorsed by the Senior Executive Planner and Senior Planner.

### Other Technical Reports

There are no other technical reports on file.

## 4.3. **Prescribed Bodies**

Irish Aviation Authority (IAA) – This report outlined that there is no requirement for obstacle lighting on the structure.

Irish Water (now Uisce Éireann) – This report outlined no objection to the development.

## 4.4. **Third Party Observations**

There were a number of third-party observations submitted to the PA which raised a range of concerns in relation to, inter alia, visual impact, the proximity to housing and the national school, devaluation of properties, proximity to historical buildings and the ACA, overshadowing, the application being misleading, concerns regarding health and safety, the stability of the structure, the development being in contravention of the development plan and the 1996 Guidelines being outdated.

A representation was also made by Michael McNamara TD requesting the need for the PA to engage with and address the submissions and those who have concerns within the wider public.

## 5.0 Relevant Planning History

None on subject site according to PA's planning register.

Site approximately 900 metres southwest - PA ref. 12/567

Permission was granted to Vodafone Ireland Ltd to retain an existing 27-metre-high telecommunications support structure at Drewsborough Road, Scarriff.

Site approximately 2.5km south – PA ref. 08/286

Permission was granted to O2 Communications Ltd to retain an existing 21-metre-high monopole and associated infrastructure at Mountain Park, Tuamgraney.

## 6.0 Policy Context

### 6.1. Clare County Development Plan 2023-2029

The settlement of Scarriff / Tuamgraney is designated as a 'Service Town' due to its role as an important service centre within the municipal district of Killaloe and its role as a driver of growth for the surrounding hinterland.

General Objectives – Scarriff and Tuamgraney (Volume 3c)

- To ensure that the serviced linked settlements of Scarriff and Tuamgraney are a driver of growth and prosperity for their catchment, by consolidating their administrative, retail and service bases, protecting and enhancing their distinctive town centre characteristics and natural landscape settings, and maximising their role for sub-regional growth.

Objective CDP 4.5 – Service Towns

It is an objective of Clare County Council:

a) To ensure that the Service Towns are individual drivers of growth and prosperity for their respective catchments, by consolidating their administrative, retail and service bases, protecting and enhancing their distinctive town centre characteristics and natural landscape settings, and maximising their role for sub-regional growth;

### Objective CDP11.55 Telecommunications Infrastructure

To consider the provision of high-speed, high-capacity digital and mobile infrastructure within the County having regard to the DEHLG Telecommunications Antennae and Support Structures Guidelines for Planning Authorities 1996 (as updated by PL07/12 of 2012) with regard to the appropriate environmental assessments and compliance with objective CDP 3.3 of this plan. (*CDP 3.3 relates to appropriate assessment, strategic environmental assessment and strategic flood risk assessment*)

### Objective CDP14.2 Settled Landscapes

To permit development in areas designated as 'settled landscapes' to sustain and enhance quality of life and residential amenity and promote economic activity subject to:

- I. Conformity with all other relevant provisions of the Plan and the availability and protection of resources;
- II. Selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design which are directed towards minimising visual impacts;
- III. Regard being had to the need to avoid intrusion on scenic routes and on ridges or shorelines.

Developments in these areas will be required to demonstrate:-

- a) That the site has been selected to avoid visual prominence
- b) That the site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads.
- c) That design of buildings and structures reduces visual impact through careful choice of forms, finishes and colours, and that any site works seek to reduce visual impact.

### Objective CDP14.7 Scenic Routes

- a) To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community;
- b) To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact; and

c) To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.

Appendix 5 Scenic Routes – Number 28, R463 from Tuamgraney to Mountshannon

#### Section 19.4 Nature of Zonings

##### Utilities/Infrastructure Safeguard

The subject site is zoned ‘utilities – UT2’ within the Scarriff settlement boundary (Volume 3c Killaloe Municipal District Settlement Plans).

It is intended that land zoned ‘utilities’ and ‘infrastructure safeguard’ will be reserved for the existing and future provision of key infrastructural services and the upgrading of existing services and infrastructure relating to road, rail, air, electricity, telecommunications, gas, water and wastewater treatment services.

##### Objective CDP19.3 Compliance with Zoning

To require development proposals to comply with the zoning of the subject site in settlement plans and local area plans.

#### **6.2. National Policy**

- Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030
- Climate Action Plan 2024

#### **6.3. Regional Policy**

- Regional Spatial and Economic Strategy for the Southern Region

##### Regional Policy Objective (RPO) 137: Mobile Infrastructure

It is an objective to strengthen the continued delivery of high-speed, high-capacity digital and mobile infrastructure investment in our Region and strengthen cross regional integration of digital infrastructures and sharing of networks.



#### **6.4. National Guidance**

- Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996), and associated Circular Letter PL07/12 (19<sup>th</sup> October 2012)

#### **6.5. Natural Heritage Designations**

The subject site is not located within any designated site. The nearest designated site is Lough Derg (Shannon) Special Protection Area (SPA) (Site Code 004058) which is located approximately 1.3km east of the subject site. This is also designated as a proposed Natural Heritage Area (pNHA) and extends to approximately 900 metres south of the subject site. The subject site is also located approximately 2.3km south of Slieve Aughty Mountains SPA (Site Code 004168).

#### **6.6. Environmental Impact Assessment (EIA) Screening**

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. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. I refer the Board to Appendix 1 of the report in this regard.

### **7.0 The Appeal**

#### **7.1. Grounds of Appeal**

A first party appeal was lodged to the Board on 26<sup>th</sup> September 2022. The grounds of appeal are summarised as follows:

- The grounds of appeal are provided for under Section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, (i.e. material contravention). Permission should have been granted having regard to the RSES for the area, Section 28 Guidelines, Section 29 Policy Directives, the statutory obligations of the PA and any relevant policy of the government.

- If the Board are concerned with the proposed height of 21 metres, the applicant is prepared to reduce the height of the monopole to 18 metres which will enable the necessary coverage for the town, however, this would result in poorer quality of coverage for the wider area and would result in a reduction for other providers to gain representation on it.
- A series of photomontages are provided from differing viewpoints including the approach to the site from the scenic route to the east. The height of the structure in these photomontages is at the reduced height of 18 metres. Photomontage 2,3 and 5 show that views of the structure will be limited. With regards to views 1 and 6, there will be differing levels of impact due to topography, roadside flora, manmade objects and the direction of view, however, the landscape can accommodate the structure well. View 4 shows the greatest visual impact and the 18 metre high pole would create less of an impact.
- An overview is provided in relation to the market operators, technology, lines of sight that are necessary between a cell and base station, infrastructure requirement, market changes regarding 2G and 3G, statistics in the Irish market and the difference between outdoor and indoor coverage.
- ComReg provide excellent coverage map information and are based on outdoor coverage levels, however, indoor levels will be smaller by comparison and will vary with location and topography. As homes become better insulated, they may reduce the strength of mobile phone signals, as outlined in ComReg's Radio Spectrum Management Strategy Statement 2017-2018.
- The site is ideally located on the northern and high elevation of the town and at 21 metres the 4G and 5G coverage for the town and catchment area beyond can be achieved. The exchange provides important and established utilities that Eir and Tetra can take advantage of.
- An existing 27-metre-high lattice type structure to the south side of the town at Drewsborough Road, where Vodafone and Eir both transmit from, has been discounted as the lands rising to the north negatively impacts 4G and 5G coverage with obstacles reducing the quality of service. More equipment would not result in achieving the technical objectives for the target area and there is no existing alternative and suitable infrastructure available in the town.

- Tetra provides some coverage from the wooden pole at the existing exchange, however, it is too low and structurally incapable to allow for the Tetra upgrade or for the required 4G and 5G equipment to be installed.
- A Comreg coverage map is provided highlighting a weakness in coverage for Scarriff and the surrounding road network. An area of very good outdoor coverage deteriorates to good outdoor coverage almost following the contour lines as the land increases in height. The quality of indoor coverage does not meet the quality requirements for Eir or Eir-mobile.
- The proposal does not contravene the Telecommunications, Antennae and Support Structures, Guidelines 1996. They were written over 25 years ago and although in many respects remain applicable today the latest technology bands and coverage demands, including data services, requires sites close to the source of demand. There is limited flexibility to secure the necessary coverage for Scarriff and the proposal does not conflict with any fragile or sensitive landscapes or designated sites.
- It is acknowledged that the structure will remain noticeable at different locations along a scenic route. It does not intrude overly on the general view of prospect and due to the topography and undulating nature of the area, it is considered that the proposed structure will not be intrusive. The siting complies with the development plan zoning objective to the best compromise. It is submitted that the majority of views would be intermittent.
- The proximity to a residential area does not justify a refusal of planning consent when considering the 1996 Guidelines. It is now necessary for masts to be located within or in the immediate surrounds of smaller towns or villages to provide the services required.
- The site can be considered as last resort having regard to the need for an elevated site, the advantage and utilities gained from the existing exchange and the requirement to be close to the source of demand. The proposal meets the requirements of the 1996 Guidelines and Section 4.3 Visual Impact.
- The structure is designed to support more than a single operator and will be available for Eir and the emergency services operator, Tetra.

- There is no empirical evidence that telecoms infrastructure has a devaluation of property.
- The existing and proposed installation will be fully compliant with the relevant health and safety legislation and will be operated in accordance with ComReg Guidelines.
- Reference is made to Board decisions ABP-309019-20 and ABP-309359-21.
- The development is supported by Government policy, by regional and national supporting guidelines and Our Rural Future – Rural Development Policy 2021-2025.
- The county development plan supports the proposal and the principle of development of this nature is established at the site.
- It is respectfully requested that the Board grant permission for the proposed structure.

## 7.2. Planning Authority Response

The PA issued a response to the grounds of appeal on 17<sup>th</sup> October 2022 and referred the Board to the considerations set out in the planner's report. They respectfully requested that the Board uphold the PA's decision. They stated that they did not want to make a contingency submission in respect of the appeal.

## 7.3. Observations

A total of 3 no. observations were received from Brendan O'Dwyer, Pierce and Sarah Madden and Terence Madden. The issues raised within these observations are summarised as follows:

- It is requested that the decision of the PA is upheld.
- Concerns are raised in relation to the proximity of the mast to property boundaries (*10 metres in the case of Terence Madden and 6 metres in the case of Pierce and Sarah Madden*) and properties (*25 metres in the case of Pierce and Sarah Madden*) and concerns are raised in relation to the visual impact and overshadowing.

- The value of residential properties will be substantially reduced.
- There is no objection to the development if it was carried out at an appropriate location that has no impact on people's homes or lives. The development should be relocated to a more elevated location outside of the town where a much-shortened mast would be sufficient to obtain the same coverage.
- The site is next to an important scenic and tourist route and the obtrusive and dominating structure would have a negative impact on the town of Scarriff which would be in contravention of the Clare Development Plan.
- A number of photographs are provided by Pierce and Sarah Madden and Terence Madden showing the context of the site with their properties.

#### 7.4. Further Responses

As previously outlined above within Section 1 of this report, under Section 131 of the Planning and Development Act 2000, as amended, notices were issued to all parties of the appeal to invite further submissions due to the High Court Order, passage of time since the Board's quashed decision and to the Clare County Development Plan 2023-2029 now being the adopted plan in place.

No further observations were received from the observers Brendan O'Dwyer, Pierce and Sarah Madden or Terence Madden.

The Planning Authority issued a response on 3<sup>rd</sup> July 2024, and this is summarised as follows:

- The subject site has retained the 'Utilities' zoning in the Scariff/Tuamgraney settlement plan within Volume 3C of the Clare County Development Plan 2023-2029. The objective for lands within this zoning has not been altered in the new development plan.
- Views towards the town on approach from the east are open in nature and whilst houses and vegetation may provide intermittent obstructions towards the view of the monopole, it would remain a large and dominant structure.
- No notable changes have been made to the policies and objectives relating to scenic routes within the new development plan. Objective CDP14.7 specifically

relates to scenic routes. There have been no significant changes in the local landscape since the original assessment of the application. Therefore, the original assessment of visual impact remains valid.

- General policy text relating to telecommunication infrastructure remains unchanged, however, whilst the wording of objective CDP11.55 (previously CDP8.44) has been updated, the general intention of the objective remains unchanged.
- Notwithstanding the proposed location within an existing infrastructure compound, the height and design of the structure is excessive having regard to the location in close proximity to a number of residential properties. The proposed mast is just 15 metres from the residential properties in the adjoining estate and will undoubtedly have a negative impact on the amenities of same.
- It is respectfully requested that the Board upholds the decision of the PA to refuse permission.

The applicant issued a response on 4<sup>th</sup> July 2024, and this is summarised as follows:

- The offer to reduce the monopole height to 18 metres is still available to the Board should they consider it an appropriate mitigation measure in their assessment.
- The 'utilities' zoning under the new development plan and recognition as an 'existing telecommunications site' is of particular relevance. The site is an established utilities site and there has been telecommunications infrastructure on the site for over 15 years, however, the single-operator wooden support structures cannot meet current or future demand and are unsuitable for additional equipment given their relatively low height and limited structural capabilities.
- The proposed monopole is capable of accommodating multiple users. Letters are provided from Vodafone and Eir supporting the proposal. Vodafone advise that the current coverage in Scarriff and surrounding area is negatively impacted by the landscape which significantly effects the delivery of reliable voice and data services to the area and that the installation will significantly improve coverage and enhance the provision of new 4G and 5G services to the

local area and is in keeping with local and national objectives of sharing infrastructure. Eir consider that the site is well located to spread out capacity across multiple sectors resulting in greatly enhanced data speeds and quality voice services.

- The main objective for the operators of this structure would be to provide indoor voice and data services to the homes, businesses and roads located in the area and therefore must be located in reasonable vicinity to the area in which it is intended to serve.
- Existing telecommunications sites in the area include Eir and Tetra at the exchange site, Eir and Vodafone on a lattice tower southwest of the subject site at Drewsborough and Three Ireland located 2km south at Tomgraney. A ComReg map is provided showing these locations.
- The current proposal is in line with the sequential approach to locating telecommunications infrastructure and provides adequate justification of the development. It is not a new telecommunications site and already accommodates such infrastructure which have been in place for over 15 years. However, the wooden pole structures are not fit for purpose.
- ComReg outdoor 4G coverage maps for Eir, Three and Vodafone are provided and it is stated that this indicates weaker coverage to the northern part of Scarriff town and wider area. The southern area of the town is classed as 'very good' coverage.
- It is not uncommon for such structures or antennae to be in close proximity to towns and villages and there is no requirement for a separation distance as noted under Section 2.3 of Circular Letter PL07/12. The presence of commercial, residential, schools and tourist attractions increases the justification for the infrastructure in the area.
- A reference to the inspector's assessment of ref. ABP-314689-22 is made. (*The Board should note that this inspector's report formed part of the quashed decision and therefore does not form part of my considerations*).
- The views of the structure will be intermittent given its location to the rear of the property and the surrounding built environment and mature natural screening.

It will not overly intrude on views or prospects in the town centre. The photomontages for the 18-metre-high monopole adequately demonstrate that the development would not have a significant or prominent visual impact. Where the structure will be visible will be in the context of an established utilities property surrounding existing buildings or with partial screening of its lower portion due to existing buildings and vegetation.

- The magnitude of the impact on the visual amenities of the area are considered acceptable having regard to the characteristics of the subject site and the surrounding area, the requirement for the proposed height to effectively function for the current operator and for the location to be as close as possible to the geographical/population area to be served. The location is the most suitable given the precedent for infrastructure and utilities in the locality.
- The development is supported by the report of the mobile and broadband taskforce and Action Plan for Rural Development, by Project 2040 and the National Planning Framework and would be acceptable in terms of the policy requirements of the county development plan.
- Other planning permissions granted by the Board are referenced. These developments were within established Eir exchange settings, or similar height and scale.



## 8.0 Assessment

8.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the planning authority and having inspected the site, and having regard to relevant local, regional and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of the Development
- Site Justification
- Visual Amenity
- Residential Amenity

8.2. The Board should note that the settlement of Scarriff/Tuamgraney is designated as a 'Service Town' within the Clare County Development Plan 2023-2029 (CDP) with a population of 805 persons. The CDP recognises Tuamgraney as an historic monastic settlement and Scarriff as the main service centre in East Clare. The CDP states that significant service provision is to be directed towards the more established town centre of Scarriff and Tuamgraney is to be encouraged to build on its tourism potential arising from its monastic heritage and attractive nature. Therefore, the Board should note that there is a clear distinction between both settlements with regards to the nature of their future growth.

### **Principle of the Development**

8.3. The subject site comprises of an existing telecommunications exchange and is zoned 'Utilities – UT2' within the CDP. I note that this zoning seeks to reserve such lands for existing and future provision of key infrastructural services and for the upgrading of existing services and infrastructure within Scarriff relating to, inter alia, telecommunications. Therefore, having regard to the zoning I consider that the principle of such telecommunications infrastructure within the subject site is acceptable in principle.

8.4. Furthermore, the Board should note that regional policy objective 137 of the Regional Spatial and Economic Strategy for the Southern Region (RSES) seeks to facilitate and strengthen the delivery of high speed, high-capacity telecommunications infrastructure

within the region and objective CDP11.55 of the CDP seeks to consider the provision of such infrastructure having regard to the 1996 Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (i.e. the 1996 Guidelines) (as updated by PL07/12 of 2012).

### **Site Justification**

#### Last Resort Test

- 8.5. Section 4.2 of the 1996 Guidelines states that the location of antennae support structures will be substantially influenced by radio engineering factors. Moreover, Section 4.3 of the 1996 Guidelines states that only as a last resort should free standing masts be located within or in the immediate surrounds of smaller towns, or within residential areas or beside schools.
- 8.6. The Board should note that the subject site represents an existing established utilities facility. Therefore, there is scope to consider such site in accordance with the last resort test outlined above, subject to the necessity to locate the infrastructure within the immediate surrounds of Scarriff and subject to no suitable or no available alternatives.

#### Alternative Locations

- 8.7. The applicant acknowledges existing telecommunication structures at Tomgraney, which I note is approximately 2.5km south of the subject site (operated by Three Ireland) and at Drewsborough, which I note is approximately 900 metres southwest of the site (operated by Eir and Vodafone). I also note the applicant's comments in relation to the negative impact of the landscape on existing coverage in the area due to lands rising to the north and to their requirement to site the structure on the more elevated part of the town and next to the population they propose to serve.
- 8.8. The applicant has provided a number of ComReg maps illustrating the existing outdoor 4G coverage within the area for the operators Eir, Vodafone and Three and I note the applicant's comments regarding weaker coverage within the northern part of the town and wider area.
- 8.9. The Board should note that I have reviewed the 'Outdoor Mobile Coverage Map' on the Commission for Communications Regulation website and consider the mapping provided by the applicant to be consistent and accurate with the website mapping. 4G

coverage for the three operators is at the maximum part of the legend, i.e. 'very good', within the southern part of Scarriff and within the area of Tuamgraney. 'Very good' coverage extends further south to Tomgraney for the operator 'Three'. However, in relation to the area around the northern part of Scarriff and the subject site, the outdoor coverage is classified as 'Good' and 'Fair' in places, even though Eir and Vodafone are operating from an existing mast 900 metres southwest of the site. Therefore, it is my view that an option of remaining at this location would not to be a suitable alternative due to the existing gaps in coverage within the northern part of the town.

- 8.10. Furthermore, 'Three' are operating from an existing mast at Tomgraney 2.5km south of the site, yet the Board should note that the ComReg coverage maps only indicate 'Fair' Three 4G coverage in places within the northern part of Scarriff. Therefore, it is my view that it would not be reasonable to relocate to this mast in order to capture the gaps in coverage within the northern part of the town.
- 8.11. Notwithstanding this, the ComReg maps do not capture indoor coverage and I note it is also part of the applicant's justification to site the development at this location in order to provide indoor voice and data service. Having regard to this, I consider this to be a reasonable justification to site the development at this location in order for the applicant to reach its target catchment.

#### Design and Height Justification

- 8.12. Section 4.2 of the 1996 Guidelines states that the design of antennae support structures and antennae and other dishes will be dictated by radio and engineering parameters.
- 8.13. With regards to the proposed 21-metre height, the applicant states that this is necessary to provide signal propagation and to achieve a line of sight to other masts to link into the network, in order to achieve 4G and 5G coverage for the town and wider catchment area. However, the applicant does recommend reducing the structure to 18 metres in height which would enable the necessary coverage for the town but would reduce the quality of service to the wider area and result in a reduction for other providers to gain representation on it.
- 8.14. Whilst I note that the siting of the structure is located in close proximity to residential properties the design of the support structure is monopole and it is my view that sufficient justification has been provided for the 21-metre height in order to achieve

effective operation to the town and wider area and in order to provide accommodation for a multiple number of users which I consider to be in accordance with Section 4.5 of the 1996 Guidelines.

#### Site Justification Conclusion

- 8.15. The Board should note that it is my view that the applicant has provided adequate justification to site the structure at this location, having regard to the zoning of the site which supports such infrastructure, to the existing established use of the site for such infrastructure, to the existing gaps in outdoor coverage within the northern part of Scarriff as illustrated on the ComReg outdoor coverage map, to the unsuitability of the existing masts at Drewsborough and Tomgraney to achieve the target coverage area as illustrated by the ComReg coverage gaps, to the proposed monopole design of the structure and to the operator's main objective to provide indoor voice and data services and to serve, inter alia, commercial and residential uses. Therefore, having regard to the above, I am satisfied that the last resort test has been satisfactorily demonstrated.

#### **Visual Amenity**

- 8.16. The PA's first reason for refusal relates to the siting and scale of the development dominating the eastern approach to Scarriff and inherently altering the character of the town and scenic route at this location. The PA considered that the development was contrary to objective CDP13.7 (which is now objective CDP 14.7 of the CDP).
- 8.17. Within the applicant's grounds of appeal and further Section 131 submission, it is stated that views of the structure will be intermittent given its location to the rear of the property and to the surrounding built environment and mature natural screening.

#### Character of the Town

- 8.18. With regards to the PA's concerns that the development would alter the character of the town from the eastern approach to the town, the Board should note that having travelled through the town centre of Scarriff, it is my view that the character of the town is largely defined by its attractive main street and market square which are located within a designated architectural conservation area (ACA). The Scarriff weigh house (RPS no. 465) and the harbour bar (RPS ref. 467) protected structures (PS) are also located within this ACA.

8.19. The Board should note that I did not observe any clear viewpoints of the subject site along the Main Street or market square or within the context of the PS' due to the built-up nature of the area and surrounding topography. I noted that the proposed development would be visible on approach to the town from the R-352 to the east, and I acknowledge that Volume 3c of the CDP recognises such approach as a gateway that forms part of the town's public realm. However, I do not consider that such visibility would significantly alter the character of the town due to its location on the periphery of the town centre and ACA and away from view of these designations. Therefore, it is my view that the development would not terminate views or impact on the distinctive characteristics of the town centre which objective CDP4.5 seeks to protect and enhance.

#### Scenic Route

8.20. I note that the subject site is located directly off the scenic route on Connacht Road (as illustrated on Map ref. H5 of Volume 2 of the CDP). This scenic route continues eastwards onto the R-352 to Mountshannon and westwards/south-westwards along Scarriff Main Street. Whilst I note that the CDP does not provide an explanatory note for the selection of each individual scenic route, it does state that the purpose of these designations are to protect and conserve views adjoining public roads throughout the County where these views are of high amenity value. The Board should also note that whilst objective CDP14.7 seeks to protect sensitive areas from inappropriate development, it does not preclude development along scenic routes.

8.21. Having inspected the site and travelled the route along the R-352 to Mountshannon, I did observe attractive views of Lough Derg along the R-352 road which I considered to be of high amenity value. The Board should note that I am satisfied that the proposed development would not interfere with such views due to the location and distance of the subject site from these viewpoints.

8.22. Furthermore, having observed the site on the Connacht Road directly opposite the entrance and at the Connacht Road junction to the west I did not note any views of high amenity value. As I have stated previously, I consider the Main Street and Market Square of the town to be attractive and therefore of high amenity value, however, I did not note any substantial viewpoints of the site within these areas. Therefore, I consider

that the proposed development would not terminate any views of high amenity value along this scenic route.

- 8.23. Whilst I have acknowledged that the development would be visible on approach to the town from the east, and the CDP recognises this approach as part of the town's public realm, I consider that the proposed development would not be seriously detrimental to any views of high amenity value in which the scenic route designation seeks to protect. My reasoning for this is due to the built-up nature of the area, the topography of the site and adjoining lands, the backdrop of the site and to the location of the town centre and architectural conservation area (ACA) outside of the subject site and, ultimately, out of view from this road. Furthermore, the eastern boundary of the site does benefit from mature vegetative screening which would help soften the visual impact in accordance with objective CDP14.2(b) of the CDP.
- 8.24. Having regard to the above, I am satisfied that the proposed development would not seriously injure any high amenity value views from the scenic route and therefore the siting is in accordance with Section 4.3 of the 1996 Guidelines and objectives CDP14.2(III) and CDP14.7 of the CDP in this regard.

### **Residential Amenity**

- 8.25. The PA's second reason for refusal related to the siting of the development in proximity to residential properties. The PA considered the development contrary to objective CDP8.44 of the CDP (now objective CDP11.55 of the CDP) and that it did not meet the last resort test outlined in the 1996 Guidelines due to the excessive height and design. I have already established under paragraphs 8.5 to 8.15 above that the last resort test has been satisfactorily demonstrated by the applicant.
- 8.26. The Board should note that Section 2.3 of Circular Letter PL 07/12 states that PAs should not include minimum separation distances between telecommunications structures from houses and schools as they can inadvertently have a major impact on the roll out of a viable and effective telecommunications network.
- 8.27. I note that the proposed development will be located approximately 28-39 metres southeast of the rear elevation of the observers' properties along Connacht Road and approximately 6, 10 and 18 metres, respectfully, from their rear/side property boundaries. The development will also be located approximately 5 metres west of the

rear boundary of 15 Dergview and approximately 15 metres from its rear elevation. The site is also located approximately 500 metres south of Scarriff National School.

- 8.28. Having regard to the distance to properties, to the proposed narrow width of the monopole structure at circa 0.4 metres at the base reducing to circa 0.3 metres near the top of the structure, to the scale of the proposed equipment and antennae, I do not consider that the proposed development would result in a significant adverse impact on residential amenity in terms of overshadowing. Furthermore, having regard to the height of the structure, to the distance to adjoining properties, and to the substantial existing vegetation along the north and east boundaries of the site, I am satisfied that the proposed development would not result in a significant adverse impact on the visual amenities of adjoining residential properties. If the Board are minded to grant permission I recommend that a condition is attached that retains and maintains this existing vegetation.
- 8.29. Whilst not referenced by the PA in its reason for refusal, a number of observers have raised concern with the devaluation of property as a result of the proposed development. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

### **Other Issues**

#### Alternative Proposal

- 8.30. The Board should note that the Applicant has submitted an alternative proposal as part of the appeal documentation proposing to reduce the height of the monopole structure to 18 metres. The applicant has submitted revised drawings and a number of photomontages to illustrate the reduced 18 metre height. Having regard to my assessment above, it is my view that the proposed 21-metre-high structure is acceptable at this location in terms of visual and residential amenity and is required in order to achieve a wider target catchment and accommodate multiple operators. However, if the Board do not agree with my conclusions above and are minded to consider the 18-metre high structure as an alternative, it should be noted that all parties have been given an opportunity to comment on these revised proposals in accordance with Section 131 of the Planning and Development Act 2000, as amended.

Notwithstanding this, I do not consider this modification to be material that would require a recirculation to the parties.

### Validation

- 8.31. The Board should also note that as part of the further information response the applicant clarified that it is proposed to remove the 10-metre-high wooden pole and not the 12-metre-high wooden pole as outlined within the development description. The Area Planner's view was that this was misleading which undermined the validity of the application. However, the PA did not invalidate the application or request revised public notices as part of the further information response and therefore were satisfied to determine the application. The Board should note that I am satisfied that the error in the description of the application is not material with regards to the assessment of the application and such error has not prevented parties from making representations within this appeal. I also note that the submitted observations did not raise any concern with this issue.

## **9.0 Material Contravention**

- 9.1. The applicant has based the grounds of appeal on Section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, i.e. material contravention. However, the Board should note the PA's reasons for refusal did not specify a "material" contravention of the CDP. Furthermore, the submitted observations have not specified a material contravention of the CDP. Moreover, the PA's further submission under Section 131 references the policies and objectives within the new CDP and, again, the Board should note that the PA does not specify a material contravention.
- 9.2. Having regard to my conclusions above, to the general nature and text of objectives CDP14.7 and CDP11.55 of the Clare County Development Plan 2023-2029, I concur with the PA and am satisfied that a material contravention does not arise, and therefore, the requirement under Section 37(2)(b) does not arise in this instance.
- 9.3. Notwithstanding this, if the Board were to conclude that a material contravention of the CDP does arise, it is my view that the development would not appear to be supported by any of the four criterion under Section 37(2)(b).



## 10.0 Appropriate Assessment (AA) Screening

- 10.1. I have considered the project in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The subject site is located approximately 1.3km west of Lough Derg (Shannon) Special Protection Area (SPA) (Site Code 004058) and approximately 2.3km south of Slieve Aughty Mountains SPA (Site Code 004168).
- 10.2. The qualifying interests of SPA 004058 are the following: Cormorant (*Phalacrocorax carbo*) [A017], Tufted Duck (*Aythya fuligula*) [A061], Goldeneye (*Bucephala clangula*) [A067], Common Tern (*Sterna hirundo*) [A193] and Wetland and Waterbirds [A999]. The qualifying interests of SPA 004168 are the Hen Harrier (*Circus cyaneus*) [A082] and Merlin (*Falco columbarius*) [A098].
- 10.3. Having considered the nature, scale and location of the proposed development, 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:
- Having inspected the site and having reviewed the Environmental Protection Agency's AA Mapping Tool, I note that there are no direct hydrological connections between the subject site and any European site.
  - Having regard to the separation distance from the European sites regarding any other potential ecological pathways and intervening lands.
  - Having regard to the characteristics of the subject site which comprises of an existing telecommunications exchange building, to the built-up nature of the surrounding area and distance to SPA 004058 and SPA 004168, I am satisfied that no ex-situ effects are likely.
- 10.4. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European site and appropriate assessment is therefore not required.

## 11.0 Recommendation

- 11.1. I recommend that permission is **Granted** subject to conditions, having regard to the following reasons and considerations.

- 11.2. The Board should note that telecommunication masts and antennae that provide for broadband are considered exempt from development contributions under Table 2(8) of Section D of the Clare County Council Development Contribution Scheme 2017-2023.
- 11.3. Furthermore, the Board should note that I do not consider it necessary to condition obstacle lighting on the structure, having regard to the submission of the IAA to the PA.

## 12.0 Reasons and Considerations

Having regard to the provisions of:

- (a) The National Planning Framework,
- (b) The Regional Spatial and Economic Strategy for the Southern Region,
- (c) The Clare County Development Plan 2023-2029, and
- (d) The Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996) and associated Circular Letter PL07/12,

and to the location and siting of the proposed development within an existing telecommunications exchange within the settlement boundary of Scarriff, on lands zoned ‘utilities – UT2’ under the Clare County Development Plan 2023-2029, to the nature, scale and height of the proposed development and proximity to residential properties and to the nature of views from the designated scenic route (Ref. no. 28), it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously be detrimental to the character of the town, and would not seriously injure the residential or visual amenities of the area including any high amenity value views from the designated scenic route. It is considered that the proposed development would be in accordance with objectives CDP11.55 (telecommunications infrastructure), CDP14.2 (settled landscapes) and CDP14.7 (scenic routes) of the Clare County Development Plan 2023-2029 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and further information submitted on 2<sup>nd</sup> August 2022, 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. Details of a colour scheme for the mast and any ancillary structures hereby permitted shall be submitted to, and agreed in writing with the planning authority, prior to the commencement of development, and the agreed colour scheme shall be applied to the mast and any ancillary structures upon erection.

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

3. In the event of the telecommunications structure and ancillary structures hereby permitted ceasing to operate for a period of 6 months, the structures shall be removed, and the site shall be reinstated within 3 months of their removal. Details regarding the removal of the structures and the reinstatement of the site shall be submitted to, and agreed in writing, within 7 months of the structures ceasing to operate, and the site shall be reinstated in accordance with the agreed details at the operators expense.

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

4. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained.

**Reason:** In the interest of visual amenity, residential amenity and biodiversity.

5. No advertisement or advertisement structure shall be erected or displayed on the proposed structure or its appendages or within the curtilage of the site.

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

6. Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

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

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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Gary Farrelly  
Planning Inspector

24<sup>th</sup> September 2024

## Appendix 1 - EIA Pre-Screening

<b>An Bord Pleanála Case Reference</b>	ABP-319875-24		
<b>Proposed Development Summary</b>	Replacement of 10-metre-high wooden pole with a 21-metre-high telecommunications monopole together with antenna, dishes and associated equipment enclosed by security fencing		
<b>Development Address</b>	Eir Exchange, Connacht Road, Ballyminogue, Scarriff, County Clare		
<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>X</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>			EIA Mandatory EIAR required
<b>No</b>	<b>X</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>	<b>X</b>		No EIAR or Preliminary Examination required
<b>Yes</b>			Proceed to Q.4
<b>4. Has Schedule 7A information been submitted?</b>			
<b>No</b>			Preliminary Examination required
<b>Yes</b>			Screening Determination required