



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-321367-24

<b>Development</b>	Erection of a 24m high telecommunications lattice structure with fencing and all associated site works including access tracks.
<b>Location</b>	Cappagh Road, Barna, Galway
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	2460137
<b>Applicant(s)</b>	Vantage Towers Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Kevin Kelly
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	29 <sup>th</sup> of September 2025
<b>Inspector</b>	Caryn Coogan

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## **1.0 Site Location and Description**

- 1.1. The site is located on the western outskirts of Galway city, off the Cappagh Road which links into Bearna village. It is located north of an existing roundabout and is located off a minor local road, which includes a number of one-off houses. The roundabout is also linked to the Western Distributor Road which serves large residential estates.
- 1.2. It is an elevated location east of Cappagh Road. The site is part of a field of scrub and rock outcrops. It is 0.64Ha. There is an access track to the site which is used to access the lands for grazing and currently used to access the existing monopole and compound. There are also scrub/ferns to the north of the site.
- 1.3. There is an existing monopole in close proximity to the site, is disguised as a tree. This monopole is to be removed and replaced by the proposed lattice structure. There is also a compound in close proximity to the subject site associated with the existing monopole.

## **2.0 Proposed Development**

- 2.1. The proposed development is the erection of a 24m high telecommunications lattice structure including a headframe, along with antennas, dishes and associated telecommunications equipment all enclosed by security fencing.
- 2.2. The construction of an initial access track to link with an existing public road to the south and the construction of an access track to the north to be used in the future which will link with the proposed new service road when available and associated with the completion of works for the N6 Galway City Ring Road.
- 2.3. Further information was requested by the planning authority on the 24<sup>th</sup> of June 2024, and further Clarification of Further Information on the 9<sup>th</sup> of August 2024:
  - The proposed development does not conflict with the N6 GCRR, however the design of the GCRR involves the construction of embankments in the locality of the proposed development. The applicant should confirm that they have taken account of the GCRR design in considering their mast design and location and are acceptable of any potential impact GCRR infrastructure (e.g.

embankments, lighting, barriers, signage, gantries etc.) could have on their operations.

Therefore, having regards to the above you are requested to consult with the project team and submit any revisions necessary to comply with their requirements, ensuring there would be no adverse impacts upon the N6 route. Clarification of Further Information issued on 9<sup>th</sup> of August 2024.

- It is noted that Pl. Ref. No. 22/104 was refused by ABP. With regards to the access to the north, 'to the new service road' which would connect to the Cappagh Road, that area of roadway does not form part of your site outlined in red or blue denoting ownership, while no consent to make a connection or right of way over this road has been included and no timeframe as to when it will be constructed has been submitted, you are requested to submit these details for examination.

2.4 A response clarifying the planning authority's concerns was received on the 14<sup>th</sup> of October 2024, following further negotiations between the applicant and the N<sup>o</sup> Galway City Bypass Project team.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Galway Co. Co. granted planning permission for the proposed development on the 6<sup>th</sup> of November 2024 subject to 2No. standard conditions.

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

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

- Agricultural zoned lands – development is open for consideration under the zoning.
- The applicant has not submitted any details of how they will connect to the proposed northern access road, consent to connect to the road or a right of way over such a roadway or when that roadway would be constructed. This was the fundamental reason the ABP refused the proposal previously.

- The Planning Authority has adopted the report of the applicant and determined that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any identified European Site and their qualifying interests and special conservation interests, alone and or in-combination with other plans and projects and that a Stage II Appropriate Assessment is not, therefore, required.
- The N6 GCRR project have no objections to the proposal however it requires further information regarding embankments, lighting, barriers, signage, gantries etc
- Having regards to the setting of the mast, the fact there is an existing mast, to be removed, within the vicinity of this site, and that the mast is generally located in an area close to the city it is considered that its scale and mass and context are not out place or keeping, and that as outlined in the above report such infrastructure is acceptable in this zoned area while the CDP encourages the roll out of such essential infrastructure. In this case the proposed height and location of the mast and its associated cabinets and fencing are all acceptable.
- Further information required regarding the future access.
- The N6 Project team highlight the location of the laneway leading east off the Cappagh Road and states there will be a right of way to the proposed gate entrance to the applicants site. The new lane/roadway is indicated as part of the N6 project works and forms part of the overall development of that route and will be subject to CPO's as required. In this case from examination of the details submitted by the applicant it is considered that sufficient legal interest has been established by the applicant in order to progress the assessment of this planning application, as initial access will be across lands where the applicant has consent from the landowner and at a point where this access is cut by the new N6 route access is to be provided as part of that scheme, this is sufficient to progress the application.
- Development Contribution Waived.

### 3.2.2. **Other Technical Reports**

- Active Travel Unit: The applicant is required to engage with the relevant local authority department in terms of the alignment of the north/south RA Greenway route.
- N6 Project Manager: The proposed development does not conflict with the N6 GCRR. However the GCRR involves the erection of embankments in the locality of the proposed development. The applicant should confirm that they have taken account of the GCRR design in considering their mast design and location and are acceptable of any potential impact GCRR infrastructure (e.g. embankments, lighting, barriers, signage, gantries etc.) could have on their operations.

### 3.3. **Prescribed Bodies**

#### 3.3.1 **Transport Infrastructure Ireland**

In the case of the above planning application, the Authority will rely on your planning authority to abide by official policy in relation to development on/affecting national roads as outlined in DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012).

#### 3.3.2 **Irish Aviation Authority**

The Authority has no requirements for obstacle warning lighting to be fitted to the proposed 24m AGL telecommunications lattice structure to be located at Cappagh Road, Barna, Co Galway.

### 3.4. **Third Party Observations**

3.4.1 There were two third-party objections to the proposed development citing the following concerns:

- The applicant does not have permission to construct the service road
- The development/application requires an EIS and
- The applicant has had a history of unauthorised developments,
- The development will impact upon the proposed N6 by pass route,

- No account has been given to the existing watercourse on the site.
- There is a hydrological connection from this site to protected sites and a need for screening/AA,
- NIA and none provided
- The development will impact upon local biodiversity and European sites,
- The development has failed to have regards to the relevant guidelines and circulars

## 4.0 Planning History

### 4.1 ***ABP 314050-22 Planning Reference 22104 relates to the subject site***

The current proposal is similar to the development refused under reference 314050, except there have been a number of new technical issues included in the current application. The reason for refusal under appeal dated 20<sup>th</sup> of November 2023, was:

*The Board considered that the alternative long-term track and alternative entrance to the site as submitted by the developer, which the Board considered a material change to the proposed development, did not form part of the original application and public notices, and was not included in the red line boundary of the original application.*

As noted in the above description of development the applicant now proposes as part of this application - the construction of an initial access track to link with an existing public road to the south and also the construction of an access track to the north, to be used in the future, which will link with a proposed new service road, once available, and associated with the completion of works for the N6 Galway City Ring Road.

### 4.2 ***ABP 319579-24 – Planning Reference 24600031 (site south-east of subject site)***

Retention permission for a temporary period of 12 months for a 24 metre high monopole with all associated site works with the same applicant. Existing development reg ref 18/173, is subject to an Enforcement Notice reference UD: 15/019, Cappagh Road, Barna, Galway was refused by the Commission for the following reason (22<sup>nd</sup> of January 2025):

*Policy 4.6 of the Galway City Council Development Plan 2023 – 2029 states it is the policy to “Enhance the delivery of an overall integrated transport solution for the city and environs by supporting the reservation of the designated strategic road corridor to accommodate the N6 GCRR project”. In this instance the proposed development is positioned within the preferred and/or approved route of a national roads scheme, N6 Galway City Council Ring Road, and if permitted, the proposed development will prejudice the delivery of this scheme and contravene the policy of the Galway City Council Development Plan 2023 – 2029. The proposed development to be retained, therefore, be contrary to proper planning and sustainable development of the area.*

## **5.0 Policy Context**

### **5.1. National Planning Framework 2020-2040**

**Telecommunications Antennae and Support Structures Guidelines as revised by Circular Letter PI07/12.**

**Regional Spatial and Economic Strategy for the Northern and Western Region 2020-2032**

### **5.2. Development Plan**

The relevant plan is the ***Galway City Development Plan 2023-2029***

The site is zoned for Agricultural use, whereby telecommunications masts are open to consideration.

#### **9.11 Telecommunications**

The availability of a high quality, efficient telecommunications network is an essential enabler of social and economic activity in the city. The continued development of telecommunications and digital infrastructure is critical to the ongoing development of the knowledge economy, digital innovation, the development of digital enterprises and to ensure the security of systems. Galway City’s digital infrastructure was categorised as ‘developed/ highly developed by the Digital Readiness Assessment carried in 2018, however it will require continued investment to keep pace with the transition to a digital society and Smart City. Galway City Council is committed to



supporting the delivery of world class communications infrastructure and the implementation of the Digital Strategy for Galway City (2020-2024), once adopted.

### **Policy 9.9 Telecommunications and Smart Technology**

1. Support the development and expansion of telecommunication infrastructure (including the broadband network) within the city where appropriate, subject to environmental, visual and residential amenity considerations.
2. Ensure that developers of masts facilitate the co-location of antennae with other operators in order to avoid an unnecessary proliferation of masts. Where this is not possible operators will be encouraged to co-locate so that masts and antennae may be clustered.
3. Ensure that development for telecommunication and mobile phone installations take cognisance of the Planning Guidelines for Telecommunications Antennae and Support (DECLG, Circular Letter PL07/12) and in relation specifically to new free standing masts and antennae, locations in the immediate proximity to residential areas, schools and other community facilities will only be considered where all other more suitable options, including opportunities to locate on tall buildings, rooftops and co-location with existing masts, have been exhausted following an evidenced based evaluation of potential sites.
4. Facilitate the rollout of digital infrastructure to implement a world class digital infrastructure and sensor network that will provide real time data and smart city solutions.
5. Support the actions of the draft Galway City Digital Strategy (2020-2024)

### **5.3.3 Local Biodiversity Sites**

In addition to areas with European and national nature conservation designations, the city has a network of Local Biodiversity Areas which also have high nature conservation value. These Local Biodiversity Areas can be classified into a range of different habitats such as lakes, exposed limestone pavement, woodlands, wetlands and peatland, all making an important contribution to biodiversity and amenity within the city (see table 5.6). Article 10 of the EU Habitat's Directive requires member states to protect those features of the landscape which provide linear features or stepping stones essential for the migration, dispersal and genetic exchange of wild

species, through planning and development policies. Local Biodiversity Areas provide vital habitat for many species, provide important wildlife corridors and ecological stepping stones in the city and contribute to the ecological coherence of the network of European Sites.

The Biodiversity Action Plan proposes to resurvey and record the local biodiversity areas. It also seeks to identify any additional wildlife corridors and stepping stones which are of high value and merit in the green network.

A precautionary approach will be adopted and the Council will have due regard to the sensitivity and the biodiversity importance of these areas, where developments are proposed. Local Biodiversity Areas shall be taken into account in the planning, design and assessment of development applications and will inform local area plans, where appropriate.

### **5.3. Natural Heritage Designations**

- Lough Corrib (00297)
- Galway Bay Complex SAC (000268)
- Inner Galway Bay SPA (004031)

### **5.4. EIA Screening**

I refer the Board to Appendix 1 – Form 1 EIA Pre-Screening of this report.

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 (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination.

## **6.0 The Appeal**

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

6.1.2 The applicants letter dated 10<sup>th</sup> of May 2024 indicated that the applicant did intend for the new service road to comprise a part of the planning application. The applicant should have obtained consent from the owner of the land on which the new service road is intended to be built prior to proceeding with the planning application.

At the date of lodgement of the planning application the new service road does not exist and still does not exist. In addition, the land on which the new service road is proposed is to be constructed has not been the subject of a CPO for the purposes of the Galway City Ringroad. The applicant has not provided evidence of the current owner's consent on which the new service road is to be built.

6.1.3 The applicant has currently no consent from the legal owner of the new service road. The planning authority's assessment and grant of permission without legal consent lies in the face of planning legislation.

6.1.4 Nobody knows whether the service road is completed to the north of the site. This sequence of events will only become clear when the programme of works for the Ring Road is prepared which is a few years away. That presents a health and safety issue because there have been multiple fires at an existing mast within 100m of the site as recently as July 2022. The fire brigade struggled to gain access to the site from the south. The access route to the south of the site will be extinguished before the new ring road is built. The uncertainty is reason enough to refuse the development.

6.1.5 The Planning Report on file states the applicant has not submitted any details of how they will connect to the access road (new service road), consent to connect to the road or right of way over the road. These appear to be the fundamental reasons An Bord Pleanála refused the permission previously and appear not to have been addressed by the applicant other than a cursory reference. The planning authority has erred in granting this permission without these outstanding legal requirements.

6.1.6 **2001 Regulation**

- Article 22(2)(g) of the 2001 Regulations states that where the applicant is not the legal owner of the land or structure concerned the written consent of the owner is required.

#### 6.1.7 **McCallig v An Bord Pleanala**

- In the McCallig case it was argued by an objector that her consent was not sought for a portion of her land that was the subject of the planning application. Donegal Co. Co. granted permission for the proposal. The Courts found the consent form should not have been accepted by Donegal Co. Co. that it was contrary to article 22(2)(g) of the Regulations, and there should be consent provided from the owner of every part of the land subject to the application, otherwise the application is invalid.
- There is no written letter of consent with an enclosed map from the relevant owner to the proposed development on which the new service road is to be built, concerning the lands to the left of the blue line at Figure 1 above as the applicant has not complied with the criteria.

#### 6.1.8 **Frescati Estates Vs Walker**

- Another legal case whereby sufficient legal interest must be demonstrated by the applicant.

#### 6.1.9 **Lack of Environmental Impact Statement**

- The applicant never intended submitting an EIS. The site is located within a 'Local Biodiversity Area. Table 5.6 of the Galway City Development Plan 2023-2029, and accordingly as a precaution and EIS should have been submitted outlining if there would be an impact on the Local Biodiversity Area. The planning authority has contravened Section 5.3.3 of its own development plan. (See Section 5 above of this Report).
- There was a report submitted with the planning application. 'Report for the Purposes of Appropriate Assessment' prepared by the Moore Group on 8<sup>th</sup> of May 2024. The report has been very selective in compiling its of examples of developments which had an EIS included as part of their planning applications near the subject site. There are developments within the Local Biodiversity Area between Ballymoneen Road and Cappagh Road that included EISs. The

fact Galway Co. Co. did not ask for an EIS on planning applications in the area, does not mean they were not required in the first place.

- In refusing the mast on the site in 2022 the planning authority stated the applicant had not demonstrated and satisfied the planning authority that the proposed development will not have a negative impact on the concertation and preservation of a European site, the Galway Bay Complex cSAC and SPA . The planning authority gave the same reason for refusal for retention of a mast 100m from the site under planning reference 24/60031. By refusing these applications the planning authority has set a precedent requiring an EIS as part of the planning applications.
- The Moore Group takes no account of the underground drains connecting the site with the European site. The planning authority has erred in granting permission and the Commission should refuse the application on this basis.
- The Office of the Planning Regulator Practice Note PN01 states Appropriate Assessment screening must be carried out. The presence of underground drains presents a clear source-pathway-receptor-link. The proposed development involves intensive construction works which is located in a local biodiversity area. The underground drains connect up with Barna Stream and the Tonabrocky Stream which lead to the Galway Bay SAC and SPA via Rusheen Bay. There should have been scientific analysis of the underground drains at the site which may be affected by adverse construction works associated with the development in respect of the listed flora and fauna.
- Page 10 of the Moore Report erroneously states there is no pathway to the Barna Stram which discharges to Rusheen Bay to Galway Bay Complex SAC and the Inner Galway Bay SPA

#### **6.1.10 Local Biodiversity Area**

- Lands between Cappagh and Ballymoneen are designated Local Biodiversity Areas. The applicant has not carried out a scientific hydrogeological investigation of the site to take account of the manmade underground drain networks connecting up with Barna Stream and the Tonabrocky Stream. There would have been boreholes to investigate this underground drain network. The AA Screening report has not addressed these points.

#### **6.1.11 Underground Drains**

- There is an established hydrological connection between the site and Galway Bay SAC with an entry at Rusheen Bay, Galway.
- Reference is made to applicant's map, figure 5 of the Moor Group Report which displays the Bearna stream but conveniently leaves out the Tonabrocky stream.
- Reference is made to Schedule 2 to a Map prepared by ARUP in connection with the Galway Ring Road, clearly displaying watercourses between the site of the mast and Galway Bay complex. In the Heather Hill High Court case 2019 it was held underground drains constituted a hydrological connection between the development and a European site. This link was not referenced in any of the applicant's submission documents.

#### **6.1.12 Planning History of Mast**

- The applicant has not demonstrated compliance with 'Telecommunications Antennae and Support Structures' and the DECLG Circular Letter PI07/12 and the 'Landscape Assessment Guidelines'. Reference is made to PI61-208611 relating to a decision in 2004. The mast was refused because it was located 200m from a creche, and this issue is still relevant to the current proposal. There are lands zoned for industrial and commercial use across at Knocknacarra that can be used for a telecommunications mast.
- The construction of the mast is not a last resort for the applicant, other sites suitability zoned could be acquired or accessed in the area.
- The previous reporting inspector in 2004 has set a precedent stating the construction of a mast would breach the 1996 Mast Regulations and the development plan. This remains the case today in 2022.

#### **6.1.13 Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities**

- There has been no statement of compliance furnished with the applicant with the International Radiation Association Guidelines. There should be an underlying report based on technological and scientific evidence analysis

providing evidence of how compliance has or will be achieved . The requirement is re-iterated in the Circular Letter PL07/12.

- The Commission should reject the proposal because it has not complied with the Guidelines, or the 2001 Regulations.

#### **6.1.14 Galway City Ring Road**

- Galway Co. Co. previously refused planning permission for the development under reference 22/104 and nothing has changed since that date.
- Objective 23 of the Galway City Development Plan page 118 states the Route Corridor for the N6 Galway City Ring road shall be reserved.
- This policy objective was referenced in the previous refusal for the mast.
- The southern access track of the Ring Road forms part of the planning application and is within the path of the proposed N6 Galway City Ring Road.
- The access track to the south of the site forms part of the planning application in 2024 as well as in 2022 when the planning authority previously refused the application. The planning authority have been inconsistent with its current decision. There has been no justification why the current application was treated differently to the previous one on the site.

#### **6.1.15 Telecommunications Installations under the Development Plan**

- The deficiencies in the Moore Group Report and the inadequacies in the environmental assessment of the site by the applicant has been detailed at length. Essentially Galway Co. Co. contravened its own development plan.

#### **6.1.16 The Design of the Compound**

- The proposal involves the construction of a compound with no attempt to integrate the development into its rural setting which is made up of stone walls.
- The 1996 Mast Regulations emphasise the need for cognisance of the landscape in which they are cited. The palisade fencing has no regard for the setting or the landscape. Section 5.3.3. of the development plan requires retention of existing natural features in new developments including retention of existing stone walls.

#### **6.1.17 Existing Mast**

- Under Condition No. 3 of planning reference 18/173 the site should have been reinstated. This has not been carried out.

#### **6.1.18 Flight Path of Emergency Services**

- The proposed development will be directly on the flight path of the emergency service helicopters that are travelling from the west of the county and beginning their descent to university hospital with patients. The relevant bodies were not notified of the applicant.
- There has been no anti-collision lighting included as part of the proposal, section 11.8 of the development plan requires such installations.

#### **6.1.19 Judicial Review**

- If the proposal is not in compliance with the development plan or planning legislation, the proposal is exposed to judicial review.

### **6.2. Applicant Response**

#### **6.2.1 Previous Appeal**

- The Commission refused the same development as the current proposal under reference 314050. Much of the previous information is relevant to the current appeal. The technicality issue arising from the refusal has been addressed under the current proposal.
- There are two possible scenarios that could arise from the future decision associated with the proposed by-pass/ N6 Galway City Ring Road. The new bypass will be refused and the status quo of accessing the mast will remain, or the new by-pass will be granted and a new future access to the lands will be secured.
- The planning application would be a straightforward case only for the complicated issues arising from the Galway By-pass appeal (ABP Ref. 318217-23).



- Another appeal for retention of a similar development with the same applicant in the immediate area is currently under consideration under reference PL61.319597)

6.2.2 The original planning application for the existing structure, Planning Reference 04458, which was planning permission granted on 11/01/2005.

### 6.2.3 ***Insufficient Legal Interest***

- There is currently one access route to the existing mast owned by the site provider. The consent of the site provider was given and the ownership cannot be disputed.
- The area of site of the entire proposed development falls within the ownership of lands of the site provider, as such no other consents are required.
- If the new Galway By-Pass is granted by the Commission, it is currently under consideration, and the existing access will be partially absorbed into the new bypass and a new access will be required.
- The new access is required, otherwise the applicant's site and other landholdings will become landlocked.
- The new access will be required before the existing access is removed.
- The new service access will require acquisition of lands through the development process associated with the by-pass, through CPOs.
- To secure consent over lands that will be compulsorily purchased from a current owner is irrelevant as the situation is based in the future when the new access will give rights to the site provider's lands including the application site.
- The 'new service access' is outside of the applicant's control. It does not form part of the planning application. The applicant is merely showing how it may connect with the new service road if and when the scheme is granted planning permission.
- Based on the fact Galway Co. Co. granted planning permission for the development, the proposed development is appropriate to the location. It is in accordance with the 2001 Regulations, *McCallig V An Bord Pleanala*, and

Frascati Estates Limited. The Galway City Council Development Plan 2023 – 2029 under Walker. The case law cited does not refer to an envisaged future situation. Current case law does not apply in this instance.

#### **6.2.4 *Lack of Environmental Statement***

- The previous appeal, ABP 314040 is relevant because it is 20m from the current appeal site and included a screening report prepared by Dixon Brosnan Environmental Consultants. Despite the development been largely the same another report was prepared by Moore Group Environmental Services. Both professionally prepared reports concluded that the proposed development individually or in-combination with any other plans or projects would not be likely to have a significant effect on the listed European sites or any other European site.
- The Local Biodiversity Area and the Underground Drains are covered in both professional screening reports.

#### **6.2.5 *Planning History***

- In contrast to the 2004 appeal case, the inspector recommended planning permission be granted on the site in 2023 under reference 314050. This was only refused by the Board on a technicality and it overrides the 2004 application.

#### **6.2.6 *Telecommunications Antennae and Support Structures Guidelines for Planning Authorities 1996***

- The applicant has stringent Health and Safety policies and codes for maintenance crews and the public, which is set by the International non-ionising Radiation Committee. The proposed development will also be operated in accordance with ComReg Guidelines.

#### **6.2.7 *Permission for the Galway City Ring Road***

- There are only two scenarios regarding the new by-pass, either it is granted or it is refused. As will be noted within the planning files, 2<sup>nd</sup> request for further information, Charterhouse consulted with the Galway City Project Manager on the issue of the new access road. Access to the retained lands relating to plot 226 to the north of the proposed ring road will be provided through AR4/05..

- AR4/05 is the reference given to the new service road which is a private right of way will be offered to four owners including the owner of the lands on which the applicant is proposing to erect its telecommunications tower (Plot 226-Lands in Folio GY49097).
- AR4/05 is designed to TII standard construction details and will be a 4m wide road. A private right of way will be provided to the parties listed.

#### **6.2.8 *Other Responses to the Third Party Appeal***

- The proposed development complies with the Galway City Development Plan.
- A stone wall to service and secure the development is not appropriate.
- The existing mast is currently under consideration under PL61.319579. There is no breach of planning law.
- The proposed development and mast is only 24m in height, and slightly taller than some trees in the immediate area. The flight path would need to cross over densely populated parts of Galway. It is extremely unlikely for such a mast structure to create an obstacle of a flight path. The Irish Aviation Authority were notified of the planning application and gave no response.
- The development does not contravene the development plan or planning law. However, the appellant can still take a judicial review if they believed otherwise.
- There is a substantial amount of information associated with the history of providing a structure in this area dating back to 20 years. There is a myriad of information. Many of the issues associated with the appeal are subject to a number of informational misunderstandings.
- The inspectors recommending granting this development under reference 314050-22. The Board agreed with the recommendation apart from a technical issue relating to the access and new service road. This current application, 2460137, was made to address this technicality.
- Galway Co. Co. are satisfied with the proposal, and the Commission is asked to grant planning permission for this important structure which will ensure continued coverage for the Cappagh area.

## 7.0 Assessment

### 7.1. Introduction

7.1.1 The proposed development is a new lattice structure to replace an existing monopole structure which is located off the Cappagh Road in Galway. The new structure will facilitate three of the main mobile phone providers which will co-locate on the proposed structure. It is the same height as the existing monopole on site however it is a more robust design to cater for operation of multiple networks and the provision of modern services. The proposal will enhance the current services in the area and provide capacity for future demands and new technologies.

In essence the proposed was previously assessed under appeal reference 314050-22. The following was considered under the previous appeal and the current planning application:

- The National Planning Framework under Objective 48 aims 'develop a stable, innovative and secure digital communications and services infrastructure on an all-island basis'.
- Section 9.11 Telecommunications from the Galway City Development Plan 2023-2029 states '*The availability of a high quality, efficient telecommunications network is an essential enabler of social and economic activity in the city. The continued development of telecommunications and digital infrastructure is critical to the ongoing development of the knowledge economy, digital innovation, the development of digital enterprises and to ensure the security of systems.*
- The proposal complies with Telecommunications Antennae and Support Structures Guidelines as revised by Circular Letter PI07/12 and the Regional Spatial and Economic Strategy for the Northern and Western Region 2020-2032

7.1.2 Under the previous application for the largely identical development on the site, An Bord Pleanála refused the development only because the alternative long-term track and alternative entrance to the site to the north as submitted by the developer, did not form part of the original application and public notices and was not included in the red line boundary of the original application. All other considerations such as the

third-party observations, policy issues, landscape and visual impact, appropriate assessment were considered, assessed and deemed to be acceptable. The reporting inspector had made a recommendation to grant permission following a robust assessment of the case. Apart from the outstanding issue of the northern access road, the proposal was deemed to be in keeping with the proper planning and sustainable development of the area.

## **7.2. Preliminary Considerations**

- 7.2.1 Most of the third-party concerns raised in this appeal were raised and addressed under the previous appeal ABP-314050-22.
- 7.2.2 A similar development to the current proposal was refused under appeal reference 314050. The current application is almost identical to the development proposed under appeal reference ABP- 314050-22, with a number of procedural issues amended under the new application to address the Commission's refusal.
- 7.2.3 The subject site directly abuts the route of the N6 Galway City Transport Project: and the Galway City Council Development Plan 2023 – 2029 states:
- 'The planned N6 Galway City Ring Road (N6 GCRR) is a strategic project that is also identified in the NPF, NDP, RSES and MASP. This orbital route is a key project in the transport strategy for the city that will support journeys that are not always convenient by non-car modes. Other transport measures will also be progressed that will enable an efficient and reliable public transport service to provide access into and through the city centre creating an enhanced environment for walking and cycling.'*
- 7.2.4 I note from the planning history the proposed northern access road to the subject site was the subject of compulsory purchase acquisitions, the most recent being ABP 318220-23 and ABP 318217-23 which were reactivated cases following the Board's Decision quashed by Order of the High Court on the N6 Galway City Ring Road Motorway Scheme 2018 and Protected Road Scheme 2018. The relevant lands are cited as GCRR Plot 226. Transport Infrastructure Ireland has stated the proposed development does not conflict with the N6 GCRR, however the design of the GCRR involves the construction of embankments in the locality of the proposed development. The applicant should confirm that they have taken account of the GCRR design in considering their mast design and location and are acceptable of

any potential impact GCRR infrastructure (e.g. embankments, lighting, barriers, signage, gantries etc.) could have on their operations. This issue was addressed by the further information received on the 3rd of July 2024 and was deemed to be acceptable to the planning authority and the N6 project team.

7.2.5 On balance, the use of the site to support telecommunications structures is established on the site. The current monopole disguised as a tree, is inadequate to support the growing demand for 4G and 5G broadband in the area. The new lattice structure will enable a more effective coverage of the area and enable co-location with a number of service providers. The overall development is very similar to ABP Ref. No. 314050, and it is not my intention to repeat everything previously assessed and accepted under the previous appeal. It has been established and accepted that the structure is important for future operators, important for the local populations and the economy, and it generally complies with the provisions of the Galway City Development Plan 2023-2029 and ministerial guidelines and the National Planning framework.

### **7.3 Procedural Issues**

7.3.1 To recap on the outstanding issue arising from the previous appeal. The subject site is currently accessed from an existing access road to the south of the site, which also serves the existing monopole and associated compound. In the event planning permission for the N6 Galway City Ring Road is permitted, the southern access will be effectively cut off under the proposed Ring Road scheme. Therefore, in the event of planning permission been granted, an alternative access road to the site/ lands has also been proposed under N6 Galway City Ring Road planning application to access the lands, and this access has been included in this planning application, on a provisional basis. (Photo Plate No. 2 taken during my site inspection).

7.3.2 The third-party appellant claims the applicant has not submitted any details of how they will connect with the new service road to the north of the site, in the event planning permission is granted for the Galway City Ringroad. There has been no consent provided with the planning application, and the planning permission should not have been granted by Galway Co. Co. in the absence of this information.

- 7.3.3 The applicant claims every effort has been made to comply with all the necessary requirements associated with the two possible access scenarios that could arise from the future decision associated with the proposed bypass/ N6 Galway City Ring Road. The N6 Project team were consulted during the planning application assessment, and it highlighted the location of the future laneway leading east off the Cappagh Road and states there will be a right of way to the proposed gate entrance to the applicant's site. The new lane/roadway is indicated as part of the N6 project works and forms part of the overall development of that route and will be subject to CPO's as required. In this case from examination of the details submitted by the applicant it is considered that sufficient legal interest has been established by the applicant in order to progress the assessment of this planning application, as initial access will be across lands where the applicant has consent from the landowner and at a point where this access is cut by the new N6 route access is to be provided as part of that scheme. In my opinion, this is sufficient to progress the application. In the event the new by-pass is refused planning permission, the status quo will prevail. In the event it is granted a new access road to the lands will be secured through a replacement access as set out in the Galway City Ring Road application. I would generally accept that apart from the complications associated with the N6 Galway City Ring Road application, that this current proposal is otherwise a straightforward planning appeal.
- 7.3.5 There is currently an existing access route to the existing mast across the lands owned by the site provider, and the access route to the replacement mast will use the same lands, the consent by the site provider was given and the ownership cannot be disputed. Therefore, the status quo will remain as per the planning application details in the event the Galway Ring Road is not permitted or does not proceed.
- 7.3.6 The alternative, new service route to the north is within the site boundaries of the planning application. This access is proposed under the current N6 Galway Ring Road application because the part of the existing access will be absorbed into the by pass route and the site provider's lands and other lands will become landlocked. The new access road will require acquisition of lands through compulsory purchase which is currently before the Commission for decision. The applicant has submitted on appeal that to secure consent over lands that will be compulsorily purchased

from a current owner is irrelevant as the scenario situation is based in the future when the new access will give rights to the site provider to access the lands (subject site). The current application is simply showing how the proposed development may connect with the service road in the event the Galway City Ring Road is permitted, constructed and operational. In the meantime, the existing site access will be used. It will take a number of years for the Galway City Road to be constructed if it is permitted. Therefore, having reviewed Article 22(2)(g) of the Planning and Development Regulations 2001, case law under *McCallig v An Bord Pleanala* and the *Frescati Estate* case, these do not refer to a future scenario, whereby a potential future access is subject to future changes in ownership and development. I do not consider the law and cases cited to be relevant to the current situation, because the need for the development is circumstantial, and so is the future ownership.

#### **7.4 Relevant Case**

- 7.4.1 The applicant, Vantage Towers Limited, had applied to Galway Co. Co. in 2024, under planning reference 24/60031 for retention of a temporary permission for 12 months in respect of a 24m monopole at Cappagh Road, Galway. This site is southeast of the subject site. The Commission upheld the planning authority's decision to refuse the permission in January 2025 because the subject site was within the preferred route of a national roads scheme, the N6 Galway City Council Ring Road, and the proposal would contravene Policy 4.6 (2) of the development plan.
- 7.4.2 The current proposal under appeal is located outside of the preferred route and therefore does not contravene the stated policy. The N6 GCRR project team had no objections in principle to the proposed development.

#### **7.5 Other Issues**

- 7.5.1 The Third-Party concerns regarding an Environmental Impact Statement are addressed under the appendices of this report.
- 7.5.2 There were two separate Screening Reports prepared by Dixon Dixon Brosnan Environmental Consultants and Moore Group in respect of the proposed development. The issue of Appropriate Assessment is dealt with in the next section of this report.
- 7.5.3 The development contribution is waived in accordance with government policy.



- 7.5.4 Transportation Infrastructure Ireland and the Irish Aviation Authority have no objection to the proposed development.
- 7.5.5 A stone wall surrounding the development to improve the visual impact, as suggested by the third party, is not appropriate to this form of development.
- 7.5.6 The Moore Group who prepared the Appropriate Assessment Screening Report. The general area is drained by the Barna Stream which discharges to Rusheen Bay and to Galway Bay. However there are no pathways to the stream from the site. There is no hydrological link from the site to the Tonabrocky stream either as suggested by the third party. The screening report has referenced all relevant Data Sources as per Page 4 of the professionally preprepared report.

## **8.0 AA Screening**

- 8.1 I have considered the case in light of the requirements S177U of the Planning and Development Act 2000 as amended. The proposed development is located on an elevated agricultural site and comprises the construction of an 24 m lattice tower, enclosed by security fencing together with antennas, dishes and associated telecommunications equipment and access from an existing access track. It is to replace an existing monopole at the same approximate location. I note the submitted report prepared by Moor Group – Environmental Services which was included with the planning application submission documents. I also noted the planning authority were satisfied and agreed with the findings of the screening report.
- 8.2 The site includes grazing land for livestock, with pockets of scrub and instances of rock outcrops. There are no water courses in the immediate area and there is no connectivity to watercourses off site. There are two identified sites within the Zone of Influence:

Site Code: 00268 Galway Bay Complex SAC (0.67km )

Site Code: 004031 Galway Bay SPA (1.34km)

The Lough Corrib SAC (Site Code 000297) and Lough Corrib SPA (Site code 004042) are located in a different hydrological catchment over 4.3 1km to the east and with no connectivity or pathways to the River Corrib these two site can be screened out at this stage. The general area is drained by the Barna Stream which discharges to Rusheen Bay and to the Galway Bay Complex SAC (Site Code

000268) and the Inner Galway Bay SPA (Site Code 004031). However, there are no pathways to the Barna Stream from the proposed development site and there is no connectivity to these, or any European sites. The underground drainage is not considered to be a clear source-pathway-receptor link as suggested by the third party appellant. In any event the construction works associated with the erection of the lattice structure and associated compound will involve minimal earthworks. The ongoing operation of same will have limited impact on the groundwater drainage systems and aquifer system,

8.3 Having considered Appendix 2 of this report, the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- Small scale and nature of the development
- The location on agricultural land where the precedent for a telecommunications mast exists
- The distance from the European Sites.
- The absence of ecological pathways to any European Site.
- Taking into account the Screening Report from the applicant.

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

## **9.0 Recommendation**

I recommend the planning authority's decision to grant planning permission for the proposed lattice structure be upheld by the Commission.

## 10.0 Reasons and Considerations

Having regard to:

- (a) National policy regarding the provision of mobile and telecommunications services,
- (b) The Telecommunications Antennae and Support Structures Guidelines for Planning Authorities, issued by the Department of the Environment and Local Government in July 1996, as updated by circular Letter PL07/12, issued by the Department of the environment, Community and Local Government on the 19th of October 2012,
- (c) The policy of the planning authority as set out in the Galway City Development Plan 2023-2039 to support the provision of telecommunications infrastructure,
- (d) The location of the site where there is an existing telecommunications structure in place
- (e) The nature and scale of the proposed telecommunications support infrastructure, It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area and would not be contrary to the overall provisions of the current development plans for the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. 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. Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.

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

3. Details of the proposed colour scheme for the telecommunications structure, ancillary structures and fencing shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

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

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including hours of working, noise management measures and offsite disposal of construction and demolition waste.

**Reason:** In the interests of public safety and residential amenity.

5. When equipment or structures are no longer required, they shall be decommissioned, dismantled and removed from the site within 3 months of the cessation of its use unless otherwise agreed in writing with the Planning Authority.

**Reason:** In the interests of the proper planning and sustainable development of the area.

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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Caryn Coogan  
Planning Inspector

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30<sup>th</sup> November 2025

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	321367-24
<b>Proposed Development Summary</b>	The proposed development is for the construction of a 24m lattice telecommunications support tower antennas, dishes and associated equipment and ground-level equipment, such as cabinets and security fencing. The application states that the intention is to replace existing 24m high telecommunications monopole.
<b>Development Address</b>	Cappagh Road Bearna Co. Galway
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.  <input type="checkbox"/> No, further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2,	

<p>Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
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4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

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

## Appendix 2 AA Screening

Screening for Appropriate Assessment Test for likely significant effects				
<b>Step 1: Description of the project and local site characteristics</b>				
<b>Brief description of project</b>	The provision of a <b><i>telecommunications lattice</i></b> at Cappagh Road, Bearna, Co. Galway.			
<b>Brief description of development site characteristics and potential impact mechanisms</b>	Site area is 0.64Ha  The site currently hosts an existing telecommunications structure and associated compound. It is a grassland/ scrub area elevated east of Cappagh Road. I note the distance of the site from European sites is significant. There is wastewater and effluent generated in the wash facility.			
<b>Screening report</b>	Yes			
<b>Natura Impact Statement</b>	No			
<b>Relevant submissions</b>	None			
<b>Step 2. Identification of relevant European sites using the Source-pathway-receptor model</b>				
Closest European site are Site Code: 00268 Galway Bay Complex SAC (0.67km )Site Code: 004031 Galway Bay SPA (1.34km)				
European Site (code)	Qualifying interests <sup>1</sup> Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections <sup>2</sup>	Consider further in screening <sup>3</sup> Y/N
<b>Galway Bay Complex (000268)</b>	The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest: 1140 Mudflats and sandflats not covered by seawater at low tide 1150 Coastal lagoons*	0.67km to the southwest of the site	There is no direct connection. The proposed mast is sited on land with no drainage ditches or water courses leading to the Barna Stream and as such	<b>N</b>



	<p>1160 Large shallow inlets and bays</p> <p>1170 Reefs</p> <p>1220 Perennial vegetation of stony banks</p> <p>1310 Salicornia and other annuals colonising mud and sand</p> <p>1330 Atlantic salt meadows (Glaucopuccinellietalia maritimae)</p> <p>1355 Otter Lutra lutra</p> <p>1365 Harbour seal Phoca vitulina</p> <p>1410 Mediterranean salt meadows (Juncetalia maritimi)</p> <p>3180 Turloughs*</p> <p>5130 Juniperus communis formations on heaths or calcareous grasslands</p> <p>6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco Brometalia)(*important orchid sites)</p> <p>7210 Calcareous fens with Cladium mariscus and species of the Caricion davallianae*</p> <p>7230 Alkaline fens</p> <p>NPWS (2013) Conservation Objectives: Galway Bay Complex SAC 000268. Version 1. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht.</p>		the possibility of effects on the habitats and species of this site can be excluded.	
<b>Inner Galway Bay SPA (004031)</b>	<p>The overall aim of the Habitats Directive is to maintain or restore the favorable conservation status of habitats and species of community interest:</p> <p>A003 Great Northern Diver Gavia immer</p> <p>A017 Cormorant Phalacrocorax carbo</p> <p>A028 Grey Heron Ardea cinerea</p>	1.34km to the southwest of the site	The proposed mast is sited on land with no drainage ditches or water courses leading to the Barna Stream and as such	<b>N</b>

	A046 Brent Goose Branta bernicla hrota A050 Wigeon Anas penelope A052 Teal Anas crecca A056 Shoveler Anas clypeata A069 Red-breasted Merganser Mergus serrator A137 Ringed Plover Charadrius hiaticula A140 Golden Plover Pluvialis apricaria A142 Lapwing Vanellus vanellus A149 Dunlin Calidris alpina alpina A157 Bar-tailed Godwit Limosa lapponica A160 Curlew Numenius arquata A162 Redshank Tringa totanus A169 Turnstone Arenaria interpres A179 Black-headed Gull Chroicocephalus ridibundus A182 Common Gull Larus canus A191 Sandwich Tern Sterna sandvicensis A193 Common Tern Sterna hirundo A999 Wetlands		the possibility of effect on the habitats and species of this site can be excluded.	
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**Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites**

**AA Screening matrix**

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
River Barrow and River Nore SAC (002162)	Construction : No pathway  Operational: Indirect: adequate wastewater treatment plant capacity, surface water attenuation before discharging to sewer. Uisce Eireann state the wastewater connection is feasible without requiring an upgrade.	

	A Section 16 licence, governed by the Local Government (Water Pollution) Act 1977, is required for discharging trade effluent into a sewer. (Uisce Eireann letter 09/01/2025)	
	<b>Likelihood of significant effects from proposed development (alone): NO</b>	
X	<b>If No, is there likelihood of significant effects occurring in combination with other plans or projects?</b>	
X	<b>Possibility of significant effects (alone) in view of the conservation objectives of the site*</b>	
	<b>Likelihood of significant effects from proposed development (alone): Y</b>	
X	<b>If No, is there likelihood of significant effects occurring in combination with other plans or projects?</b>	
<b>Step 4 Conclude if the proposed development could result in likely significant effects on a European site</b>		
<p>I conclude that the proposed development (alone) would not result in likely significant effects on the two European sites stated above. The proposed mast is sited on land with no drainage ditches or water courses leading to the Barna Stream and as such the possibility of effects on the Natura network of sites can be excluded. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project.</p> <p>No mitigation measures are required to come to these conclusions.</p>		

### Screening Determination

#### Finding of no likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on the in view of the conservation objectives of this site and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- Small scale and nature of the development
- The precedent for a telecommunications mast exists
- Distance from European sites.
- No hydrological connections to the European sites.