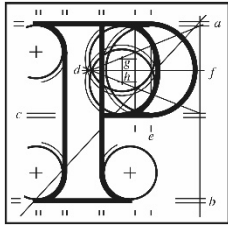


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An
Bord
Pleanála

Inspector's Report

ABP-321715-25

Development	24 metre high telecommunications tower and all associated works.
Location	Beechmount, Yellowbogcommon, Kilcullen, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	2460633
Applicant(s)	APW UK WIP Limited, t/a Icon Tower
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Eamonn Domican
Observer(s)	Gary Mallon and Ciara Domican
Date of Site Inspection	2 nd April 2025
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The site is located in a rural area in County Kildare c. 8km south of the M9 and M7 junction and 3km south of the village of Kilcullen.
- 1.2. The appeal site has an area of 0.06 hectares. It is located within an existing farm holding. It is accessed via a gated agricultural track which was constructed on behalf of Kildare County Council around the time of the M9 motorway. A number of landowners in the vicinity have keys to this land according to information on file. The cul de sac road leading onto the private gated track serves a large number of one off rural dwellings.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a 24 meter lattice mobile and broadband tower with headframe carrying telecommunications equipment, together with associated equipment and cabinets enclosed within a 2.4m palisade fence compound.
- 2.2. Access to the site is via an existing private lane.
- 2.3. The structure and compound are designed to house equipment for Three Ireland and other operators in the future as indicated in a cover letter submitted with the application.
- 2.4. Further Information was submitted to the Planning Authority on the 25th of November 2024 which provided a site justification report for the proposed development.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission subject to 15 No. conditions. All conditions are of a standard nature for a development of this type.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The initial planning report dated 23/08/24 considered that there is a lack of robust information with the application. Further Information was required including a technical justification report. A second planner's report dated 12/12/24 considered that the information provided was satisfactory and recommended permission subject to conditions.

3.2.2. Other Technical Reports

Development Contributions Report: Considers that Sections 8.2 and 8.5 of the Development Contributions Scheme are applicable in this case.

Transport/ Roads Section: No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. No reports.

3.4. Third Party Observations

3.4.1. The Planning Authority received a number of submissions/observations in relation to the application. The main issues raised are similar to those set out in the appeal and observation to the appeal.

4.0 Planning History

4.1. None.

5.0 Policy Context

5.1. Kildare County Development Plan 2023 – 2029

- 5.2. The site is located in the Eastern Transition Landscape which is classified as a 'Medium Sensitivity Area'.

13.3.2 Impact of Development on Landscape

In order to determine the likely perceived impact of a particular development on the landscape, the potential impact of the development must be viewed having regard to the sensitivity of the area. Table 13.3 below provides guidance on the likely compatibility between a range of land-use classes and the principal landscape areas of the county classified by sensitivity. Table 13.4 identifies the likely compatibility between a range of land-uses and proximity of less than 300m to the principal Landscape Sensitivity Factors. It should be noted that all developments are unique and at micro / local level, landscapes vary in terms of their ability to absorb development and each site should be assessed on its individual merits.

Compatibility Key		Sensitivity Class	Agriculture and Forestry		Housing	Urbanisation			Infrastructure	Extraction		Energy	
<div></div>	Most		Agriculture	Forestry	Rural Housing	Urban Expansion	Industrial Projects	Tourism Projects	Major Powerlines *	Sand & Gravel	Rock	Windfarm	Solar
<div></div>	High												
<div></div>	Medium												
<div></div>	Low												
<div></div>	Least												
Principal Landscape Character Areas													
North Western Lowlands		1											
Northern Lowlands		1											
Southern Lowlands		1											
Central Undulating Lands		1											
Western Boglands		3											
Eastern Transition		2											

- 5.3. Table 13.2 outlines that these are areas with the capacity to accommodate a wide range of uses without significant adverse effects on the appearance or character of the landscape having regard to localized sensitivity factors.

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5.4. Appendix 7 outlines listed views as follows:

13.5 Scenic Routes and Protected Views

Scenic routes provide views of the landscape of the county and many built and archaeological features. In addition to scenic routes there are a number of protected views throughout the county. These are located particularly along water corridors and to and from the hills in the countryside. Scenic routes and protected views consist of important and valued views and prospects within the county. These scenic routes, hilltop views and scenic viewpoints are listed in Table 13.5, 13.6 and 13.7 below and their locations can be seen on Map V1 - 13.3.

The Council recognises the need to protect the character of the county by protecting views and scenic routes. However, it is acknowledged that in certain circumstances, some development may be necessary. In this regard, appropriate location, siting and design criteria should strictly apply. All proposals will be assessed taking into account the overall character of the scenic route and the character of the landscapes through which the route passes, in accordance with the criteria outlined in section 13.3.2.

5.5.

No.	Description	Location
01	Views of Old Kilcullen to the east and Dún Aillinne to the west, from the R418 Motorway Interchange to the south of Moortown House.	Knockbounce, Knockaulin, Old Kilcullen, Glebe North, Moortown and Moortowncastle.
02	Views to the east of Yellowbogcommon, from the junction of R418/R448 to Halverstown crossroads.	Yellowbogcommon and Glebe South.

5.6.

Section 7.15 deals with Telecommunications Infrastructure

5.7. Relevant policies and objectives are as follows:

Policy EC P20: Support national policy for the provision of new and innovative telecommunications infrastructure and to recognise that the development of such infrastructure is a key component of future economic prosperity and social development of County Kildare.

Objectives

It is an objective of the Council to:

EC O75	Promote and facilitate the provision of appropriate telecommunications infrastructure, including broadband connectivity and other technologies within the county. Such projects shall be subject to AA screening and where applicable, Stage 2 AA. The developments will have regard for protected species and provide mitigation and monitoring where applicable.
EC O76	Co-operate and co-ordinate with relevant bodies regarding the laying of key infrastructural services within towns and villages and, where practicable, to encourage the efficient and shared use of said infrastructural services.
EC O77	Co-operate with telecommunication service providers in the development of the service, having regard to proper planning and sustainable development.
EC O78	Have regard to the provisions of the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996) and circular letter PL07/12 and to such other publications and material as may be relevant during the period of the Plan.
EC O79	Achieve a balance between facilitating the provision of telecommunications infrastructure in the interests of social and economic progress and sustaining residential amenity and environmental quality including to protect the visual amenity of town centres and in particular Heritage Towns and Architectural Conservation Areas.

EC O80	Ensure that the location of telecommunications structures minimises and/or mitigates any adverse impacts on communities, public rights of way, historical sites, or amenities, and the built or natural environment. Innovative design solutions will be encouraged.
EC O81	Promote co-location to minimise the number of masts and their visual impact on the environment, by continuing to facilitate appropriate development in a clustered manner, where feasible, respecting the scale, character and sensitivities of the local landscape, whilst recognising the need for economic activity within the county. It will be a requirement for applicants to satisfy the planning authority, through the development management process, that a reasonable effort has been made to share installations. In situations where it is not possible to share a support structure, masts and antennae shall be clustered.
EC O82	Minimise the provision of overground masts and antennae within the following areas: <ul style="list-style-type: none"> • Areas of high amenity/sensitive landscape areas. • Areas within or adjoining the curtilage of protected structures. • On or within the setting of archaeological sites.
EC O83	Discourage the development of individual telecommunications support structures and antennae for private use.
EC O84	Place telecommunications services underground where possible, and that any works carried out on footpaths make provision for future services.
EC O85	Co-operate with service providers in securing a greater range and coverage of telecommunications services in order to ensure that people and businesses have equitable access to a wide range of services and the latest technologies as they become available.
EC O86	Avoid free-standing masts in the immediate surrounds of small towns and villages. In the vicinity of larger towns communications providers should endeavour to locate infrastructure in industrial estates or on industrial zoned land. Only as a last resort when all other alternatives have been exhausted should free standing masts be located in residential areas or close to schools and hospitals.
EC O87	Support the erection of additional masts in some areas to ensure the delivery of “smart metering” to all areas.

5.8. National Planning Framework

- 5.8.1. The NPF generally supports improving local connectivity in terms of broadband and enabling infrastructure that affords communities opportunities to engage with the digital economy.
- 5.8.2. NP Objective 24 seeks to support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who work and live in rural areas.

5.9. National Development Plan 2021

- 5.9.1. NSO3 – Strengthening Rural Economies and Communities – recognises the importance of rolling out the National Broadband Plan in providing consumers with access to high-speed broadband services which will promote balanced regional development. The NBP will enable citizens to benefit from advances in technology.

5.10. Telecommunications Antennae and Support Structures Guidelines for Planning Authorities 1996

- 5.10.1. These guidelines set out current national policy regarding telecommunications structures. Guidance is given in respect of matters such as site selection, minimising adverse impact, sharing and clustering of facilities and development management issues. The guidelines are supportive of the development and maintenance of a high-quality telecommunications network and service.
- 5.10.2. Section 4.3 relates to visual impact. In locations which are sited along major roads and tourist routes it is stated that where the mast is visible but does not terminate views, the impact may not be seriously detrimental. Furthermore, where views may be intermittent and incidental, the mast may be visible or noticeable but may not intrude overly on the general view or prospect.
- 5.10.3. Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages, be located in residential areas or beside schools. In such cases, sites already developed for utilities should be considered and masts should be designed and adapted for the specific location and kept to a minimum height for effective operation.

5.11. Telecommunications Antennae and Support Structures and DOECLG Circular Letter PL07/12

- 5.11.1. This Circular letter provided updated guidance contained in the 1996 Guidelines, which had advised that planning authorities should indicate in their development plans any locations where, for various reasons, telecommunications installations would not be favoured or where special conditions would apply and had suggested that such locations might include lands whose high amenity value is already

recognised in a development plan, protected structures, or sites besides schools.

The Circular advised that whilst these policies may be reasonable, there has been a growing trend for the insertion of development plan policies which specify minimum distances from schools and houses, such as 1km. It is stated that such distances, without allowing for flexibility on a case-by-case basis, can make the identification of sites for new infrastructure very difficult. It is therefore advised that Planning Authorities do not include such separation distances as they can inadvertently have a major impact on the roll out of a viable and effective telecommunications network.

- 5.11.2. Section 2.6 of the Circular reiterates the advice contained in the 1996 guidelines in respect of Health and Safety aspects, that Planning Authorities should not include monitoring arrangements as part of planning permissions and that planning applications should not be determined on health grounds. Planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters relating to telecommunications infrastructure which is regulated by other codes. Conditions should not be attached limiting the life of the installation to a set period.

5.12. Natural Heritage Designations

- 5.12.1. The Curragh pNHA is located c. 4km to the south of the site. Mouds Bog SAC/ pNHA is located c. 12km south of the site and Pollardstown Fen SAC/ pNHA is located c. 10km south of the site.

5.13. EIA Screening

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

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third party appeal can be summarised as follows:

- Landowners do not have a legal right of way at this location.
- Rationale submitted in response to the Further Information request did not strongly justify this location and use.
- Concern regarding visual impact.
- Landscape is one of medium sensitivity in the Kildare County Council Development Plan – Eastern Transitional Landscape Character Area with a number of designated scenic routes.
- No technical justification submitted for the lattice tower.

6.2. Applicant Response

6.2.1. The response submitted on behalf of the applicant can be summarised as follows:

- The access track is as a result of the M9 construction and provides access to a number of landowners impacted by the M9 road.
- The nearest dwelling to the site is the appellant's daughter c. 142m from the site.
- The proposed development will be hidden by existing trees- see photomontage No. 1. Condition 6 and 7 of the decision to grant permission will also mitigate the visual impact. These conditions require a dark green boundary fence and planting with native tree species inside the perimeter of the boundary fence.
- The application addresses Three Ireland's requirement to significantly improve services along a section of the M9 motorway. The Further Information Response to the Planning Authority gave a very detailed analysis with regard to coverage requirements for the proposed structure.

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- There are no restrictions on the use of the access track. Please find attached to Appendix 2 a letter from the site owner confirming the right of way.
- It is considered that the visual impact is acceptable on the surrounding and receiving environment.
- There is a scenic route along the R448 to the west of the proposed site, however this route is lined with trees, which combined with the distance will act to substantially hide the proposed structure.
- Photomontage 3 is taken from a hill 1.19km from the site and the proposed structure is barely visible. The viewing point is c. 2.4km from the site and it is considered that the proposed development would be insignificant.
- Although initially intended for use by Three Ireland, Icon Tower is an independent provider of support structures and is intending to provide space for other services to occupy the structure.

6.3. Planning Authority Response

- The Planning Authority notes the contents of the appeal and refers the Board to reports on the file.

6.4. Observations

6.4.1. One observation has been submitted which can be summarised as follows:

- There is already very good coverage in the area for the needs of residents and commuters on the M9.
- The further information response does not provide adequate justification for the proposed new infrastructure. A telecommunications mast is located 1.4km from the proposed site.
- No evidence has been presented of engagement with operators of existing infrastructure to explore co-location or site sharing opportunities.
- The maps submitted misrepresent how close the nearest dwelling is to the site. The nearest dwelling is 93m from the site with the observers own

dwelling 130m from the site and the appellants (Eamonn Domican) dwelling 170m from the site.

- Concern regarding visual impact. The proposed development does not include a comprehensive visual impact assessment. Section 7 Appendix 7 of the Kildare County Council Development Plan highlights a number of scenic routes in close proximity to the site.
- Procedural and legal deficiencies- absence of cross section of the towers foundations, legal access to right of way.
- Health concerns.

6.5. Further Responses

6.5.1. A further response was submitted on behalf of the appellant as follows:

- The subject site is c. 130m from the appellant's daughters house and not 142m as stated in the appeal response.
- Appendix 2 does not provide detailed information regarding the right of way.
- Scenic routes have not been given consideration in the planner's report.

6.5.2. A further response was submitted by the observers as follows:

- The distance of our dwelling from the site is 130m not 142m as stated in the applicant's response. I have conducted a direct on-the-ground measurement using a measuring wheel. Furthermore, another dwelling is less than 100m away.
- No justification for proposed mast as existing coverage is rated as good to very good.
- No legal evidence has been provided in relation to the right of way.
- The impact on scenic routes has been ignored.
- Precautionary principle should apply in relation to health and wellbeing concerns having regard to the proximity to homes and a school.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file and inspected the site, and having regard to local/ regional/ national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principal of Development and Technical Justification
- Impact on Visual and Residential Amenities
- Right of Way
- Other Matters
- Appropriate Assessment

7.2. **Principal of Development and Technical Justification**

- 7.2.1. National Policy Objective 24 of the National Planning Framework seeks to “Support and facilitate delivery of the National Broadband Plan as a means of developing further opportunities for enterprise, employment, education, innovation and skills development for those who live and work in rural areas.”
- 7.2.2. Section 5.10 of the Kildare County Council Development Plan relates to Energy and Communications. Objective EC 075 states that it is an objective of the Council to promote and facilitate the provision of appropriate telecommunications infrastructure, including broadband connectivity and other technologies in the County. Objective EC 078 requires the Council to have regard to the provisions of the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996) and circular letter PL07/12 and to such other publications and material as may be relevant during the period of the plan.
- 7.2.3. I draw the Boards attention to the Technical Justification submitted by the applicant in response to a Further Information Request issued by the Council. It is stated that the coverage target area limits the site to a very small location radius. It needs to be able to integrate with the Old Kilcullen mast c. 1.4km from the site and be close enough to the M9 to ensure quality coverage and service. The coverage of existing

sites in the area were analysed as part of the technical justification. Coverage maps submitted by the applicant outline that coverage is generally good but there are ongoing deficiencies in the area. It is stated that the proposed structure can accommodate four operators' antennas and transmission equipment. This is in line with National Guidelines which encourage co-location.

- 7.2.4. Having regard to the information submitted, I am satisfied that the applicant has provided sufficient information to justify the need for the proposal. Given national and local policy I consider the development as proposed to be acceptable in principle at this location.

7.3. Impact on Visual and Residential Amenities

- 7.3.1. The appeal considers that the proposed tower will create a dominant and intrusive presence in the rural skyline. It is stated that there is a distance of 130m between the appellant's dwelling and the proposed development. Further it is stated that the construction of a 24m telecommunications tower would detract from scenic routes in the vicinity of the site.
- 7.3.2. The site is located in the Eastern Transition Landscape which is classified as a 'Medium Sensitivity Area'. This has a sensitivity rating of 2. Section 13.3.2 of the Development Plan outlines that agriculture, forestry and tourism projects are most compatible with this landscape. There is no specific category for telecommunications equipment outlined in terms of compatibility. The appeal and observation both refer to the following scenic routes:

No.	Description	Location
01	Views of Old Kilcullen to the east and Dún Aillinne to the west, from the R418 Motorway Interchange to the south of Moortown House.	Knockbounce, Knockaulin, Old Kilcullen, Glebe North, Moortown and Moortowncastle.
02	Views to the east of Yellowbogcommon, from the junction of R418/R448 to Halverstown crossroads.	Yellowbogcommon and Glebe South.

- 7.3.3. Section 13.5 of the Plan recognises the need to protect the character of the county by protecting views and scenic routes.

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- 7.3.4. The response from the applicant outlines that the proposed structure will not be visible from the closest viewing point to the site 2.4km from the site as indicated by a photomontage submitted with the application which is c. 1km from the site.
- 7.3.5. I travelled the scenic routes Nos. 1 and 2 during the site inspection. I noted that the proposed structure is of a height that cannot be screened and will be visible. Nonetheless, views from these locations are intermittent given the high level of existing dwellings, the topography and significant tree coverage in the area. I note that the planner's report does not refer to these scenic routes and does not raise any concerns in relation to the visual impact of the proposed development. Accordingly, having regard to the siting and design of the proposed development in close proximity to the M9 in an area of moderate sensitivity with mature vegetation and natural screening, I am satisfied that the proposed development would not unduly interfere with the character of the landscape or form a visually obtrusive or incongruous feature.
- 7.3.6. In relation to impacts on residential amenities, I note that the appellant has measured the distance to their property as 130m. The applicant states that the distance is 142m. Both parties are confident that the distance has been measured accurately. There is another dwelling closer to the site on the M9 which is stated to be c. 93m from the site as indicated in Figure 6 of the observation. Circular Letter: PL07/12 advises that the issue of health is regulated by other codes and is not a matter for the planning process. Based on the distance involved and the absence of evidence to indicate devaluation will arise I do not consider that any significant impact will arise in relation to residential amenities.

7.4. Right of Way

- 7.4.1. The appeal considers that the landowners do not hold a legal wayleave or right of way for the access track.
- 7.4.2. The appeal response notes that this access track is a result of the M9 construction and provides access to a number of landowners impacted by the M9. This matter was raised during the planning application and I note that the access track is for each landowner and that there are no restrictions on its use which would restrict the

use of the lands. Appendix 2 attached to the appeal from the landowner advises that the landowner has a right of way at this location.

- 7.4.3. Section 34 (13) of the Planning and Development Act 2000 (as amended) states that a person shall not be entitled solely by reason of a permission under this section to carry out any development. As such, any assessment of the question of legal interest is outside of the Board's remit.

7.5. Other Matters

- 7.5.1. I note that Section 10.5 of the Kildare County Council Development Contributions Scheme 2023-2029 outlines that telecommunications infrastructure is exempt from development contributions.

7.6. Appropriate Assessment

- 7.6.1. I have considered the proposed 24m high telecommunications tower in light of the requirements of S177U of the Planning and Development Act 2000 as amended.
- 7.6.2. The subject site is not located within or adjacent to any European Site. The subject site is located c.10km to the south of Pollardstown Fen SAC Site Code 000396 and c.12km to the south of Mouds Bog SAC Site Code 02331.
- 7.6.3. Having considered 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.
- 7.6.4. The reason for this conclusion is as follows:
- Small scale and nature of works
 - Distance from European sites and lack of connections
 - Taking into account the screening report and determination by the Planning Authority.
- 7.6.5. 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.

8.0 Recommendation

- 8.1. I recommend that the Board grant permission for the proposed development subject to the conditions set out below.

9.0 Reasons and Considerations

- 9.1. 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 Kildare Development Plan 2023-2029, to support the provision of telecommunications infrastructure, and
- (d) 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.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may

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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 services and works.

Reason: In the interest of public health.

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

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

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

Reason: In the interest of the visual amenities of the area and to protect residential amenity.

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

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

7. On decommissioning of the telecommunications structure, the structure

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and all ancillary structures shall be removed and the site reinstated at the developer's expense.

Reason: In the interest of clarity.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Emer Doyle
Planning Inspector

1st May 2025

Appendix 1- Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	321715-24		
Proposed Development Summary	Erection of 24m high telecommunications lattice tower together with associated equipment.		
Development Address	Yellowbogcommon, Kilcullen, Co. Kildare.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	√	
	No		
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	√		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√	N/A	Proceed to Q4

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4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	N/A		

5. Has Schedule 7A information been submitted?		
No	√	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		

Inspector: _____ Date: _____