



An
Coimisiún
Pleanála

Inspector's Report ABP 322695-25

Development	Permission for the replacement of a 10-metre-high wooden pole with a 21-metre-high telecommunications monopole and associated equipment.
Location	Eir Exchange, Connacht Road, Ballyminoge, Scarriff, Co Clare.
Planning Authority	Clare County Council.
Planning Authority Reg. Ref.	21/1320
Applicant(s)	Eircom Ltd trading as Eir
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party v Decision
Appellant(s)	Eircom Ltd trading as Eir
Observer(s)	1. Pierce & Sarah Madden, 2. Brendan O'Dwyer 3. Terence Madden
Date of Site Inspection	25th day of July 2025

Inspector

Fergal Ó Bric

1.0 Introduction

- 1.1 This report relates to an appeal case that follows a High Court Order (HCR.2024.0001608) dated the 20th day of March 2025. The Board's decision on appeal ref. An Bord Pleanála (ABP)-319875-24 has been quashed, and the file has been remitted back to the Board to a point in time, that being the 3rd day of July 2024. for a new determination. A new file has been assigned, reference number ABP-322695-25.
- 1.2 For information purposes, I acknowledge a previous decision by the Board in relation to similar proposals within the subject site under appeal reference ABP-314689-22 which had also been quashed and that file was remitted back to the Board for a new determination under Board reference ABP-319875-24.
- 1.3 Under Section 131 of the Planning and Development Act 2000, as amended, notices were issued to all parties of the appeal invite further submissions due to the High Court Order, the passage of time since the Board's quashed decision and to the provisions as set out within the current Clare County Development Plan 2023-2029 (CDP) being the relevant local planning policy document.

2.0 Site Location and Description

- 2.1 The appeal site is located within the settlement of Scarriff Co. Clare, north-east of the Town Centre/Market Square. The appeal site is located within the curtilage of an established telecoms exchange site and comprises a telecoms exchange building and two wooden telecommunications support pole structures, one 12 metre telecom's structure occupied by the applicants and the other, a 10 metre telecoms structure occupied by Tetra emergency services.
- 2.2 There are established residential properties located to the north and north-east within the Derg View residential development and to the south of the appeal site, on the opposite side of the local road. There is also a hair salon business located on the opposite (south) side of the local road. Access to the appeal site is from the local public road, located immediately south of the appeal site, a road that links the

Connacht Road (Main Street) with the R352, a regional route that links Scarriff with Mountshannon further east. The R352 (scenic route) is located further east of the appeal site where it borders Lough Derg along its route to Mountshannon. The topography of the site rises gradually above the level of the public road.

2.3 The site is accessed from the adjoining roadway by a vehicular gate, inside of which is a hard surfaced driveway leading to the exchange building. There is a pull-in area along the site frontage and hardstanding available internally within the appeal site to enable a number of vehicles to park or turn. The northern, eastern and western boundaries of the subject site are defined by established mature hedgerow and tree cover.

2.4 The applicant is one of the occupiers of the site. The other occupier of the site are Tetra emergency services.

3.0 **Proposed Development**

3.1 The development proposals would comprise:

The replacement of a 10-metre-high free-standing wooden telecommunications support structure with its attached equipment with a new 21 metre monopole support structure (overall height 23.8 metres) with associated antennas and operator equipment. It is proposed to relocate existing onsite equipment from Tetra Ireland to the top of the replacement monopole structure.

3.2 The applicants clarified as part of their further information response that they proposed to remove the existing 10-metre-high wooden pole support structure and stated that the 12-metre-high wooden support pole structure would remain in place. This matter will be addressed in further detail within the assessment part of this report below.

3.3 The applicants have clarified within their appeal submission and have submitted documentation including revised drawings to reduce the height of the proposed monopole structure to 18 metres as an alternative option. A number of

photomontages have been submitted illustrating the revised 18-metre height in the context of the surrounding environment. The applicants state that they would be happy to accept a planning condition to reduce the height of the monopole structure, if the Board deem appropriate.

4.0 Planning Authority Decision

4.1 Decision

The Planning Authority refused planning permission for the development following the consideration of the further information response, by order dated 29th August 2022. The two reasons for refusal were as follows:

- 1. The proposal site occupies a visually prominent site in the local streetscape/landscape, directly adjoining a designated Scenic Route. Under the provisions of Objective CDP13.7 of the Clare County Development Plan 2017-2023 (as varied) it is an objective inter alia to ensure that proposed developments are designed and located to minimise their impact and to ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved. It is considered that the proposed development, by virtue of its siting and scale, would dominate the eastern approach to Scariff, inherently alter that character of the town and the Scenic Route at this location and have a severe negative impact on the visual amenities of the area. The proposed development would therefore be contrary to Objective CDP 13.7 of the County Development Plan and would be contrary to the proper planning and sustainable development of the area.*
- 2. It is an objective, under CDP8.44 of the Clare County Development Plan 2017-2023 (as varied) to facilitate the provision of telecommunications services at appropriate locations within the county having regard to the DoEHLG Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996 (as updated by PL07/12) of 2012)' The said Guidelines for Planning Authorities state:*

Only as a last resort and if the alternatives suggested in the previous paragraph are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. If such a location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than latticed tripod or square structure.

Notwithstanding the location of the site within an established infrastructure compound, it is considered that the height and design of the structure is excessive having regard to the location in close proximity to a number of residential properties. It is considered that the proposed development would be contrary to both CDP 8.44 of the Clare County Development Plan and Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996. The proposed development would therefore seriously injure the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.

4.2 Planning Authority Reports

4.2.1 Planning Report

Two planning reports were prepared by the Planning Authority.

The first Planner's Report dated February 2022, set out the following:

- The site is located within the town of Scarriff on lands zoned 'utilities'.
- Lands zoned 'utilities' will be reserved for the provision of key infrastructural services including, roads, rail, water wastewater, telecommunications and gas amongst other infrastructure.
- Development Plan objectives support the implementation of the Rural Broadband scheme and high-capacity ICT infrastructure having regard to the provisions of the Telecommunications Guidelines 1996 and Circular PL07/12.

- No objections were received from prescribed bodies including UE and the IAA.
- Ten observations were received from local residents (these will be summarised in Section 4.4 below).
- No Appropriate Assessment (AA) nor EIA (Environmental Impact Assessment) issues were raised by the PA.
- The principle of the development was deemed acceptable subject to visual and residential amenity concerns being adequately addressed.
- Concerns expressed regarding potential impact upon visual and residential amenities and stated that a reduction in the height of the monopole should be sought.
- No built heritage, health and safety nor flood risk issues were identified by the Planner.
- Further information was recommended in relation to seeking a reduced height monopole and clarity on which of the wooden monopole structure would be replaced by the taller monopole structure.

The second Planner's Report dated August 2022, set out the following:

- The appeal site has the benefit of mature vegetation; however, the vegetation is significantly lower than the ridge heights of dwellings within Derg View. The trees and hedgerows along the site boundaries are estimated to be no more than five to six metres in height and would little to screen a 21 metre telecons structure.
- Views towards the town from the east are open in nature.
- Roadside houses and vegetation may provide intermittent obstructions towards the site; however, it will remain a large and dominant structure.
- The applicants have made no alterations to the height of the monopole structure.
- The proposed structure would be located within fifteen metres of neighbouring residential properties, and the monopole structure would have an overbearing impact upon those properties.

- As part of the further information response the applicant has not made any meaningful alterations to the proposals to address the issue raised by the PA and a refusal of planning permission was recommended as set out within Section 4.1 above.

4.2.2 The Planning Authority conducted an Appropriate Assessment (AA) screening and the screening determination concluded 'No likely direct or indirect effects due to the nature of the proposed development, the location on zoned land within an existing settlement and the lack of connectivity to European sites and Appropriate Assessment is not required'.

4.2.3 The Planning Authority conducted an Environmental Impact Assessment (EIA) preliminary screening and the screening determination concluded 'there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

4.2.4 **Internal Referrals**

No internal referrals received.

4.3 **Prescribed Bodies**

Irish Water (now Uisce Eireann): No objections.

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

4.4 **Third Party Observations**

The Planning Authority state that they received ten observations. The issues raised within the observations raise many issues similar to those raised within the third-party appeal observations and relate to the following issues:

- The scale of the development would be visually obtrusive.
- Adverse visual impact upon neighbouring residential properties.

- The proximity of the development to housing and the national school.
- Devaluation of properties,
- Proximity of development to protected structures and the town centre Architectural Conservation Area (ACA)
- The development would result in overshadowing of adjacent properties.
- Concerns regarding health and safety.
- The stability of the structure which is top-heavy.
- That other more suitable sites for the development are available on more elevated lands in order to achieve the required mobile coverage.
- The development would contravene the Development Plan policy objectives.
- The 1996 Telecommunication Guidelines are outdated.
- Potential for adverse health and safety impacts from radiation emissions, electromagnetic fields and radiation.

4.5 Representation

A representation was received from a local public representative requesting the Planning Authority to address the issues raised within the observations made by local residents.

5.0 Planning History

I refer to Section 1 within this report.

Telecoms structures permitted in the Tuamgraney/Scarriff vicinity:

Site approximately 980 metres southwest of subject site - PA ref. 12/567

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

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

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

6.0 Policy Context

6.1 Clare County Development Plan 2023-2029

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

General Objectives – Scarriff and Tuamgraney (Volume 3c)

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

Objective CDP 4.5 – Service Towns

It is an objective of Clare County Council:

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

Objective CDP 11.55 Telecommunications Infrastructure

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

Objective CDP14.2 Settled Landscapes

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

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

Developments in these areas will be required to demonstrate: -

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

Objective CDP 14.7 Scenic Routes

- a) To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community.
- b) To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact; and
- c) To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.

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

Section 19.4 Nature of Zonings

Utilities/Infrastructure Safeguard

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

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

Objective CDP 19.3 Compliance with Zoning

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

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

These Guidelines set the criteria for the assessment of telecommunications structures. Of relevance to the subject case is:

- An Authority should indicate where telecommunications installations would not be favoured or where special conditions would apply. Such locations might include high amenity lands or sites beside schools (Section 3.2).
- Only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such location should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structure should be kept to the minimum height consistent with effective operation (Section 4.3).
- The sharing of installations and clustering of antennae is encouraged as co-location will reduce the visual impact on the landscape (Section 4.5).

6.3 Circular Letter: PL07/12

The Circular Letter updated and revised elements of the 1996 Guidelines under Section 2.2 to 2.7. It advises Planning Authorities to:

- Cease attaching time limiting conditions to telecommunications masts, except in exceptional circumstances,
- Avoid inclusion in development plans of minimum separation distances between masts and schools and houses,
- Omit conditions on planning permission requiring security in the form of a bond/cash deposit,
- Reiterates advice not to include monitoring arrangements on health and safety or to determine planning applications on health grounds,
- Future development contribution schemes to include waivers for broadband infrastructure provision.

6.4 Regional Policy

Regional Spatial and Economic Strategy for the Southern Region

Regional Policy Objective (RPO) 137: Mobile Infrastructure

‘To strengthen the continued delivery of high-speed, high-capacity digital and mobile infrastructure investment in our Region and strengthen cross regional integration of digital infrastructures and sharing of networks.

6.5 Natural Heritage Designations

The subject site is not located within any designated site. The appeal site is located approximately 1.3 kilometres north-west of the Lough Derg (Shannon) Special Protection Area (SPA) (Site Code 004058). The Slieve Aughty Mountains SPA (Site Code 004168). is located approximately 2.3km south of the subject site

The site is located approximately 900 metres north-west of the Lough Derg (Shannon) pNHA.

6.6 Environmental Impact Assessment (EIA) Preliminary Screening

6.6.1 See appendix 1 at the end of this report. The proposed development is not a class for the purposes of EIA as per the provisions set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. The need for environment impact assessment can, therefore, be excluded at preliminary examination, and a screening determination is not required.

6.7 WFD-Screening

The appeal site is located approximately 0.9 kilometres north-west of the nearest boundary of Lough Derg.

The proposed development relates to the replacement of a 10-metre-tall wooden telecoms support structure pole with a 21-metre-tall monopole support structure and associated telecoms equipment. The detailed development description is set out within Section 2.0 of my report above.

Potential for impact upon water quality was not raised by the Planning Authority nor by any of the observers. The appeal site is an urban brownfield one which has no requirement for connection to the public piped water services. The appeal site is located within Flood Zone C as per the flood mapping set out within the current Clare County Development Plan 2023 where a low risk of flooding is identified.

I have assessed the planning documentation and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and, where necessary, restore surface and ground water bodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, in relation to surface water management, I am satisfied that it can be eliminated from further assessment, as there is no conceivable risk to ground or surface water bodies in terms of water quality.

The reason for this conclusion is as follows:

- The nature of the development,

- The location of the subject site, removed from the nearest the nearest ground or surface water bodies
- The absence of hydrological connections to water bodies.

Conclusion

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

7.0 The Appeal

7.1 Grounds of Appeal

The grounds of the first-party appeal may be summarised as follows:

Principle of Development:

- The grounds of appeal refer to Section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, (i.e. material contravention).
- Planning permission should have been granted having regard to the provisions of the Regional Spatial and Economic Strategy (RSES) for the Southern region, Section 28 Guidelines, Section 29 Policy Directives, the statutory obligations of the PA and any relevant policy of the government.
- The development is supported by Government policy, by regional and national supporting guidelines and Our Rural Future – Rural Development Policy 2021-2025.
- The current Clare County Development Plan (CCDP) 2023-2029 supports the proposal and the principle of development of this nature is established at the site.

Visual Impact:

- If the Board are overly concerned with the proposed monopole height of 21 metres, the applicant has submitted revised proposals as part of their appeal submission whereby a reduction in the height of the monopole to 18 metres is presented which would facilitate the necessary coverage for the town. However, this would result in poorer telecoms coverage for the wider area and would result in a reduction for the possibility of co-location with other telecoms providers within the subject site.
- A series of photomontages have been submitted (and revised as part of the appeal submission taking account of the reduced 18 metre monopole height) illustrating views from a number of specified locations including the approach to the site from the scenic route to the east, off the R352. The height of the structure represented in these photomontages is stated to be at the proposed reduced height of 18 metres. Photomontages 2, 3 and 5 show that views of the structure would be limited. With regard to views 1 and 6, there will be differing levels of impact due to topography, roadside hedging and trees, manmade objects and the direction of view, however, the applicants state that the development can easily be assimilated within the local landscape. View 4, taken from a location within a residential development north-west of the appeal site and on the opposite side of Connacht Road illustrates the greatest visual impact. The applicants acknowledge that the 18-metre monopole structure would result in a lesser visual impact, than the 21-metre-tall structure.

Design, Siting, and layout:

- The proposal does not contravene the Telecommunications, Antennae and Support Structures, Guidelines 1996. They were written over 25 years ago and although in many respects remain applicable today, the latest technology bands and coverage demands, including data services, requires sites close to the source of demand. There is limited flexibility to secure the necessary coverage for Scarriff, and the proposal does not conflict with any fragile or sensitive landscapes or designated sites.
- It is acknowledged that the proposed structure will remain visible at different locations along a scenic route. It would not adversely impact on the general view or prospect due to the topography and undulating nature of the area; it is

considered that the proposed structure will not be intrusive. The siting complies with the Development Plan land use zoning objective (UT2-Utilities). It is submitted that the majority of views to/from the site would be intermittent within this urban built-up environment.

- The proximity of the development to a residential area does not justify a refusal of planning consent having regard to the provisions within the 1996 Telecommunications Guidelines. It is necessary for telecommunications structures to be located within or in the immediate surrounds of smaller towns or villages to provide for the high-speed mobile telecoms services required and as supported by objective 11.55 in the Development Plan.
- The site can be considered as one of 'last resort' having regard to the need for an elevated site, the advantages and utilities gained from the existing exchange and the requirement to be close to the source of demand. The proposal meets the requirements of the 1996 Guidelines, including requirements set out within Section 4.3 in relation to Visual Impact.

Technical Considerations:

- An overview is provided in relation to the market operators, technology, lines of sight that are necessary for the successful operation between a cell and base station, infrastructure requirement, market changes regarding 2G and 3G, statistics in the Irish market and the difference between outdoor and indoor coverage.
- ComReg provide excellent coverage map information and are based on outdoor coverage levels. However, indoor coverage levels will be lesser by comparison and will vary with location and topography. As homes become better insulated, they may reduce the strength of mobile phone signals, as outlined in ComReg's Radio Spectrum Management Strategy Statement 2017-2018.
- The subject site is ideally located on the northern part of the town and at a 21-metre height the 4G and 5G coverage (particularly indoor coverage) for the town and catchment area beyond would be greatly improved. The exchange site (subject site) provides important and established utilities for the providers (Eir and Tetra) to take advantage of.

- In terms of alternatives, an existing 27-metre-high lattice type structure to the south of the town at Drewsborough Road, where Vodafone and Eir both transmit from, has been discounted as the lands rising to the north negatively impacts 4G and 5G coverage with obstacles reducing the quality of service. More equipment would not result in achieving the technical objectives for the target area and there is no existing alternative and suitable infrastructure available in the town.
- Tetra provides some coverage from the existing wooden pole support structure at the existing exchange, however, the wooden pole is too low and structurally incapable to allow for an upgrade or for the necessary 4G and 5G equipment to be installed.
- A Comreg coverage map is provided demonstrating a weakness in coverage for Scarriff and the surrounding road network. An area of very good outdoor coverage deteriorates to good outdoor coverage almost following the contour lines as the land increases in height. The quality of indoor coverage (not tracked within the Comreg coverage mapping) does not meet the quality requirements for Eir nor Eir-mobile.
- The structure is designed to support more than a single operator and will be available for Eir and the emergency services operator, Tetra.

Alternative sites considered:

- Alternative telecommunication sites and other sites were considered and not deemed suitable

Other Issues:

- There is no empirical evidence that telecoms infrastructure results in a devaluation of property.
- The existing and proposed installation will be fully compliant with the relevant health and safety legislation and will be operated in accordance with ComReg Guidelines.

- The applicants have referenced a number of previous Board decisions, specifically ABP-309019-20 and ABP-309359-21 where the Board have permitted similar type telecommunications developments to that proposed on the subject site.
- It is respectfully requested that the Board grant permission for the proposed replacement structure.

7.2 Planning Authority Response

7.2.1 The Planning Authority issued a response to the grounds of appeal on 17th October 2022. They set out the following:

- The Planning Authority refers to the considerations set out in the Planner's Report and requests that the Board uphold the PA's decision to refuse planning permission for the development. They stated that they did not wish to make a contingency submission in respect of the appeal.

7.3 Observations

7.3.1 Three observations were received by the Board from Brendan O'Dwyer, Pierce and Sarah Madden and Terence Madden. The issues raised within the observations related to the following:

Principle of Development:

- There is no objection to the development in principle if it was carried out at an appropriate location that would have no impact on people's homes or lives. The development should be relocated to a more elevated location outside of the town where a telecoms structure of lower height would be sufficient to gain the same network coverage.

Residential Amenity:

- Concerns are raised in relation to the proximity of the telecoms structure to neighbouring residential property boundaries.

- The proposed development would result in overshadowing of neighbouring residential properties.

Visual Impact:

- The proposed development would have an adverse visual impact when viewed from neighbouring residential properties.

Visual Impact:

- The appeal site is located in close proximity to an important scenic and tourist route and the obtrusive and dominating nature of the monopole structure would have an adverse impact on the town of Scarriff and would contravene the provisions of the current Clare County Development Plan.
- Photographic images were submitted by a number of the observers illustrating the visual impact of the proposed development in the context of their residential properties.

Other Issues:

- The value of neighbouring residential properties would be adversely impacted by the development.

7.4 Further Responses

As stated within Section 1 of this report above, under Section 131 of the Planning and Development Act 2000, as amended, notices were issued to all parties of the appeal inviting further submissions following on from the High Court Order,

A number of further observations were received from Clare County Council, the applicants and from Mr. Brendan O'Dwyer, as referenced below:

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

- The subject site has retained the 'Utilities' zoning in the Scarriff/Tuamgraney settlement plan as set out within Volume 3C of the current Clare County Development Plan 2023-2029.

- Views towards the town on approach from the east are open in nature. Houses and vegetation may provide intermittent obstructions towards the view of the monopole; however, it would remain a large and dominant structure.
- Policy Objective CDP 14.7 within the Development Plan specifically relates to scenic routes.
 - There have been no significant changes in the local landscape since the original assessment of the application. Therefore, the original assessment of visual impact remains valid.
- Objective 11.55 within the Development Plan pertains to telecommunication infrastructure and seeks to encourage and promote 'the provision of high speed, high-capacity digital and mobile infrastructure within the County having regard to the 1996 Telecommunications Guidelines (as updated by PL07/12 of 2012) with regard to the appropriate environmental assessments.
- The PA note the height and design of the structure and consider it excessive having regard to the location in close proximity to a number of residential properties. Notwithstanding the proposed location within an existing telecoms infrastructure compound, the proposed monopole structure would be located within 15 metres of residential properties in the Derg View residential development and, would, have an adverse impact upon their amenities.
- The PA requests the Board to uphold the PA's decision to refuse planning permission for the proposed replacement telecoms structure in this instance.

The applicants issued a response on 4th July 2024, and this is summarised as follows:

Principle of Development:

- The offer to reduce the monopole height to 18 metres is still available to the Board should they consider it an appropriate response to the issues raised by the observers and the Planning Authority.
- The land use zoning objective that pertains to the subject site as set out within the current Clare Development Plan 2023-29 is suitable to cater for key infrastructure which includes 'telecommunications.
- The subject site has had telecommunications infrastructure located within it for over 15 years.
- It is not uncommon for telecoms structures or antennae to be in close proximity to towns and villages and there is no requirement for a separation distance as set out within Section 2.3 of Circular Letter PL07/12. The presence of commercial and residential development, schools and tourism infrastructure increases the justification for the enhancement of telecoms infrastructure in the area.
- The development is supported by National and local planning policy as set out within the National Planning Framework, the regional plan for the southern region and within the current Clare Development Plan CDP.

Technical justification:

- The existing support structures within the site are unsuitable for additional equipment given their relatively low height and limited structural capabilities and would not meet current or future demand in terms of 4G or 5G technologies.
- The proposed monopole structure is capable of accommodating multiple telecoms providers. A number of other telecoms providers have outlined the necessity for improved mobile and broadband coverage within the northern part of Scarriff. Vodafone advise that the current coverage in Scarriff and the surrounding area is negatively impacted by the landscape which significantly affects the delivery of reliable voice and data services to the area. They state that the proposed development would significantly improve coverage and enhance the provision of new

4G and 5G services in the northern part of Scariff town and its hinterland area. to the local area.

- The applicants state that the proposals would be consistent with national and local planning objectives with respect to provider sharing telecoms sites and infrastructure.
- The applicants consider that the site is suitably located to result in enhanced mobile data speeds and quality mobile voice call services.
- The main objective for the operators of this structure would be to provide enhanced indoor voice and data services to the homes, businesses and roads located in the Scariff area and, therefore, the proposed development is required to be located in close proximity to the area in which it is intended to serve.
- The current proposal accords with the sequential approach to locating telecommunications infrastructure and provides adequate justification for the development.
- The subject site is a brownfield one which has accommodated telecoms infrastructure for over 15 years. However, the existing wooden pole support structures within the subject site are no longer fit for purpose in terms of supporting the development of new telecoms technologies and greater coverage.
- ComReg outdoor 4G coverage maps have been submitted and these demonstrate that there is weaker coverage to the northern part of Scariff town and the wider hinterland area. However, the southern part of the town and Tuamgraney is classified as having 'very good' coverage.
- The applicants set out the requirement for the proposed height to effectively function for the current operator and for the location to be as close as possible to the geographical/population area to be served. The location is the most suitable given the precedent of established telecoms infrastructure and utilities within the subject site.

Alternatives considered:

- Existing telecommunications support structures within the subject site operated by Eir and Tetra, Eir and Vodafone on a lattice tower located approximately 980 metres southwest of the subject site at Drewsbrough and Three Ireland located approximately 2.4 km south of the subject site at Tuamgraney were all considered and discounted on technological and structural stability terms. A ComReg telecommunications location map viewer is provided showing these locations.

Visual Impact

- Views of the structure would be intermittent given its location to the rear of the telecoms exchange building and the existence of the surrounding built environment and mature natural screening within the subject site.
- The development will not unduly impact upon views or prospects within the town centre of Scarriff. The photomontages for the 18-metre-high monopole adequately demonstrate that the development would not have a significant or adverse visual impact from the town centre/Market Square/ACA within Scarriff.
- The applicants acknowledge that the proposed structure would be visible in the context of an established utilities site surrounding existing buildings or with partial screening due to the existing built environment and the mature vegetation along the perimeter of the subject site
- The magnitude of the impact on the visual amenities of the area are considered acceptable having regard to the characteristics of the subject site and the surrounding area.

Other Issues:

- Other planning permissions granted by the Board are referenced. These permitted developments were located within established Eir exchange settings and/or of similar height and scale to the current proposals.

Mr Brendan O 'Dwyer issued a response to the Board on the 3rd day of July 2024 where the following issues were raised:

- It is requested that the decision of the Planning Authority to refuse planning permission is upheld.
- The proposals would have a detrimental visual impact on his home and other adjacent residential properties.
- The value of neighbouring residential properties would be adversely impacted by the development.
- The erection of a 21-metre-tall monopole structure at an important approach to Scarriff would be in contravention of the Clare Development Plan as it would not enhance the town environment.
- The applicants should re-assess their proposals having regard to the provisions as set out within the Clare County Development Plan 2023 and the issues raised by local residents. This industrial scale development should be relocated to a more elevated location outside of the town where a telecoms structure of lower height would be sufficient to gain the same network coverage.

8.0 Assessment

8.1 The main issues raised within the first-party appeal and the response to same issued by the observers and the Planning Authority will be addressed under the headings set out below. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development.
- Site Selection.
- Residential Amenity
- Design and layout
- Landscape and Visual impact.
- Other issues.

- Appropriate Assessment.

8.2 Principle of Development

- 8.2.1 The Governments' aim in developing and improving telephony and broadband infrastructural services is set out in the 1996 Telecommunications Guidelines, and the revisions/updates to these Guidelines within Planning Circular PL 07/12. More recently, the National Broadband Plan (NBP), was published in 2020 and reflects the Government's ambition to ensure that the opportunities presented by this digital transformation (provided by the NBP) are available to every community in Ireland. The delivery of the NBP will play a major role in empowering rural communities through greater digital connectivity, which will support enterprise development, employment growth and diversification of the rural economy.
- 8.2.2 The Telecommunication Guidelines set out the need for the facilitation of a high-quality telecommunications service and set out the issues for consideration within planning assessments including location, access, co-location / shared facilities, design, visual impact, health, and safety. The Clare County Development Plan policy on telecommunications infrastructure is set out within Section 11.8.9 and is reflective of the Guidelines. Policy Objective CDP 11.55 and Regional Policy Objective 137 seek to facilitate and strengthen the provision of high speed, high capacity digital and mobile infrastructure within the county/region having regard to the provisions of the Telecommunication Guidelines 1996 and as updated by Planning Circular PL07/12 of 2012. The Guidelines seek to ensure the orderly development of telecommunications infrastructure, to seek to encourage co-location where possible subject to a number of caveats, including that no adverse impact on the surrounding area would arise and regard is had to appropriate environment assessment.
- 8.2.3 The proposal to improve telecommunications and broadband services is consistent with the policies and objectives as set out in the Development Plan, referenced in the paragraph above and the guidance as set out within the Telecommunications Antennae and Support Structures Guidelines for Planning Authorities (1996).
- 8.2.4 The appeal site is located within the settlement boundary of the service town of Scarriff/Tuamgraney as set out within the Clare County Development Plan 2023-2029. Given that broadband and communications are now considered an important aspect of utility services in terms of supporting education, business and residential

uses and that the appeal site is located within the curtilage of an established Eir exchange, which presently supports telecommunication services, I consider the principle of the proposed development to be acceptable.

8.2.5 The subject site comprises an existing telecommunications exchange building and has the benefit of a 'Utilities-U2 land use zoning objective as set out within the Development Plan. I note that this zoning seeks to reserve the subject lands for existing and future provision of key infrastructural services and for the upgrading of existing services and infrastructure within Scarriff relating to, inter alia, gas, water, wastewater and/or telecommunications. Therefore, having regard to the site-specific land use zoning objective, I consider that the principle of telecommunications infrastructure within the subject site is acceptable in principle.

8.2.6 On balance, I consider that the replacement telecommunications structure, would be acceptable in principle at this location.

8.3 **Site Selection**

8.3.1 Specific policy objective 11.55 within the Development Plan seek to consider the provision of high-speed, high-capacity digital and mobile infrastructure within the County having regard to the Telecommunication Guidelines and Planning Circular PL07/12 seek to encourage co-location of antennae on existing support structures. Similarly, the Guidelines state that only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages. If such locations should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location.

8.3.2 The applicants state that they have been a long-established telecommunications infrastructure provider within the subject site for over 15 years, and the proposed replacement telecommunications structure would provide for and facilitate co-location of other telecommunications providers. This requirement necessitates the development of the 21 metre (potentially revised to an 18-metre height as part of their appeal submission) proposed, which would allow additional antennae/dishes to be attached to the monopole structure by other providers and to facilitate the improvement of mobile and data services (particularly indoor services) in the northern part of the settlement of Scarriff.

8.3.3 The service currently provided is not adequate for high-speed indoor 4G and 5G broadband and mobile telephony within the northern part of Scarriff, in proximity to the

current telecoms exchange site, necessary for business, educational, tourism and residential customers. The applicants have included a section on site justification and site selection as part of its planning justification, submitted as part of their planning appeal submission. This section includes existing and predicted coverage footprint mapping. In relation to the coverage within the northern part of Scarriff and in the vicinity of the appeal site, the outdoor coverage is classified as 'Good' and 'Fair' in places, even though Eir and Vodafone are operating from an existing telecommunications structure located approximately 980 metres south-west of the site. However, the applicants have stated that indoor coverage is not adequate in this part of Scarriff due to issues such as greater insulation within dwellings which adversely impacts indoor mobile and broadband coverage. Therefore, I consider that the coverage achieved at the existing telecom's structure 980 metres south-west of the site would not constitute a suitable alternative due to the deficiencies in coverage achieved from those particular telecoms structure.

- 8.3.4 As per the ComReg coverage mapping, the existing coverage within the northern part of the settlement of Scarriff for 4G users is classified as being is classified as 'Good' and 'Fair' in places. This results in dropped/blocked calls and data sessions in the area. The applicant's predicted mobile coverage mapping sets out the benefit to mobile call and data sessions that would accrue to businesses, tourists, and residents of the northern part of Scarriff in terms of significantly improving coverage services.

Last Resort Test

- 8.3.5 In terms of the 'last resort test' I refer to Section 4.2 of the 1996 Telecommunications Guidelines states that the location of antennae support structures will be substantially influenced by radio engineering factors. Section 4.3 of the 1996 Guidelines states that only as a last resort should free standing masts be located within or in the immediate surrounds of smaller towns, or within residential areas or beside schools.
- 8.3.6 The subject site comprises an established telecoms exchange building with two wooden support pole structures. Therefore, I consider that there is scope to consider the subject site in accordance with the last resort test, subject to the necessity to locate the infrastructure within the immediate surrounds of the designated service town of Scarriff and subject to no other suitable or available alternative sites being

identified or available. The issue of alternatives will be considered a part of the assessment below.

Consideration of alternatives

- 8.3.7 The applicants referenced alternative telecommunications sites and other sites within the vicinity of the Tuamgraney/Scarriff settlement as part of their supporting planning report. Two existing telecommunications sites further south of the appeal site were considered, one located approximately 2.5 kilometres south of the subject site (operated by Three Ireland) and another site at Drewsborough Road, which is located approximately 980 metres southwest of the site (operated by Eir and Vodafone). Coverage from these existing telecommunication sites towards the northern part of Scarriff is hindered by the intervening topography and this adversely impacts the 4G and 5G coverage (particularly indoor coverage) by virtue of the absence of line of sight from these base stations towards the northern part of Scarriff.
- 8.3.8 There is one existing wooden pole structure located within the appeal site, operated by Tetra emergency services, a ten-metre-tall structure and another within the exchange site compound and within the land holding of the applicants comprising a twelve-metre-tall wooden pole structure operated by Eir. The ten-metre structure is to be replaced under the current proposals. The applicants set out neither of these structures are tall enough to achieve the required indoor 4G and 5G coverage within the northern part of Scarriff (this is supported within the ComReg coverage mapping), hence the current proposals for a taller 21 metre monopole structure which would allow for a broad coverage area to be achieved and in particular to serve residential, business and schools in the northern Scarriff catchment area.
- 8.3.9 The applicants would appear to be seeking to retain the existing 12 metre wooden pole support structure (currently operated by them) in the event that the replacement monopole structure is to be permitted. The 12-metre structure is outside of the red line appeal boundary but within the blue line land ownership boundary. Therefore, I consider that in the event that a grant of planning permission is being recommended, this structure should be conditioned to be removed in order to overcome the issue of replication of telecoms structures within a single site. Some of the observers have set out that the applicants should seek an alternative site for the development on more

elevated sites further west or south-west of the appeal site. I note that the existing town centre of Scarriff is located approximately 180 metres to the west and southwest of the subject site on elevated lands. However, this part of Scarriff is designated as an Architectural Conservation Area (ACA) and includes a number of protected structures within the ACA and for this reason would not be suitable for the location of new telecommunications infrastructure on a greenfield site.

8.3.10 Furthermore, an alternative location further east of Scarriff would also not be considered suitable as this would be along the R352 route, designated as a scenic route within the current Clare County Development Plan and in proximity to Lough Derg and would be contrary to objective 14.7 of the CDP 'To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community'. An observer referred to an alternative location on more elevated lands outside of the settlement, however no alternative site has been specifically referenced within the observation. The Town Centre/Main Street/Market Square parts of Scarriff are located approximately 180 metres to the west and southwest of the subject site on more elevated lands, than those within the subject site. However, much of this part of Scarriff is designated as an Architectural Conservation Area (ACA) and includes a number of protected structures within the ACA and for this reason would not be suitable for the location of new telecommunications infrastructure on a greenfield site. Other elevated sites outside of the settlement are also not considered suitable, as lands towards to the east would impact views of Lough Derg and the R352 scenic route, there are already two existing established telecoms structures south of the settlement (referenced in paragraph 8.3.7) and so permitting an additional structure in this part of the settlement or south of it would result in duplication of telecom structures. Having regard to the undulating topography of the town and its environs. I am not of the opinion that there are other preferable sites when considered from a landscape and visual amenity perspective. I am satisfied that the subject site is the most suitable location for a replacement telecommunications structure given its brownfield status and the 'utilities' land use zoning objective that pertains to the site.

8.3.11 It is apparent that the development is necessary to provide improved indoor mobile and broadband coverage in the northern part of the settlement of Scarriff and surrounding area in order to cater for the significant increase in demand for high-speed data in recent years. Having reviewed the information submitted, I am satisfied

that the applicant has demonstrated that the proposals to develop replacement telecommunications infrastructure on a brownfield site zoned for the provision of utilities, which includes key telecommunications infrastructure, that an adequate consideration of alternatives has been conducted by the applicants.

8.4 Residential Amenity

- 8.4.1 The Planning Authority (PA) considered the development would be contrary to policy objective CDP 8.44 of the then CDP (now objective CDP 11.55 of the current CDP 2023-29) regarding the provision of high speed and high capacity telecommunications infrastructure and that it did not meet the 'last resort test' included within the 1996 Telecommunications Guidelines due to the excessive height and design of the proposed monopole structure. I have already established within paragraphs 8.3.1 and 8.3.2 of the report above that 'the last resort' test has been satisfactorily demonstrated by the applicants.
- 8.4.2 I refer to Planning Circular Letter PL 07/12 (2012 by the DEHLG) which set out within Section 2.3 that PAs should not stipulate minimum separation distances between telecommunications structures, houses and schools as they can inadvertently have a major impact on the roll out of a viable and effective telecommunications network.
- 8.4.3 I acknowledge that the proposed replacement monopole structure would be located in proximity to the established Derg View residential development located to the north and north-east of the subject site. The proposed development would be located approximately 15 metres southeast of the rear elevation of the nearest dwellings and approximately 500 metres south of Scarriff National School.
- 8.4.4 Notwithstanding the proximity of the subject site to the adjoining residential properties, having regard to the brownfield nature of the site as an established telecoms exchange site for in excess of fifteen years, the 'utilities' land use zoning pertaining to the site which provides for the provision of key infrastructure including telecommunications infrastructure, and having regard to the separation distance to neighbouring residential properties, to the considered design of the monopole structure which provides for a narrow width of the monopole structure at circa 0.4 metres at the base reducing to circa 0.3 metres near the tip of the structure, to the scale of the proposed ancillary equipment and antennae which would be located to the rear of the exchange building and out of sight from the public domain, I consider

that the proposed development would not result in an adverse impact on residential amenities of neighbouring residents in terms of overshadowing.

- 8.4.5 Having regard to the orientation of the site on an east-west axis and the pathway of the sun, I consider that any shadows that may be cast would generally fall on lands to the east and west of the site or within the appeal site itself and in any event the shadows generated by a 0.4 metre diameter monopole would be insignificant. If the Board are minded to grant planning permission, I recommend that a condition is attached that retains the existing mature vegetation along the site perimeter. A condition requiring the implementation of additional semi-mature planting should also be included in the event that a grant of planning permission is being recommended.

8.5 Design and Layout

- 8.5.1 The Guidelines state that only as a last resort should free standing masts be located within or in the immediate surrounds of smaller towns or villages and that if such locations should become necessary, sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. It is stated within the applicants' appeal response that the structure has been specifically designed for the site, having regard to the vegetation and mature trees in the area. The structure would be located on the site of an existing telecommunications structure, albeit that the existing structure is approximately eleven metres lower in height. The increased height will make it easier to connect to provide a more reliable high-speed fibre broadband service. The location of the infrastructure in the settlement of Scarriff, would serve the mobile coverage and broadband requirements of the town and, therefore, needs to be located in proximity to the town centre.
- 8.5.2 The applicants have set out that the design of the replacement 21 metre monopole structure has been carefully considered having regard to the location of the site within an existing telecoms exchange site and its location below the levels of the Main Street and Market square areas where ground levels are considerably more elevated. The proposed 21 metre slimline monopole design provides for a narrow width of the monopole structure at circa 0.4 metres at the base reducing to circa 0.3 metres near the tip of the structure, to the scale of the proposed ancillary equipment and antennae which would be located to the rear of the exchange building and out of

sight from the public domain, I consider that the design and layout of the proposed replacement telecommunications infrastructure would not result in an adverse impact on the locality within the northern quadrant of the settlement of Scarriff.,

8.5.3 In conclusion, I consider that the proposal to locate the new structure within the same site as an existing telecoms exchange building and on the same site as an existing telecommunication structure, and the proposals to make it available for co-location by multiple operators is generally consistent with the provisions of the Development Plan and the national guidance and I consider the design and layout of the development to be acceptable, subject to consideration of its landscape and visual impact.

8.6 Landscape and Visual Impact

8.6.1 The observers consider that the proposed development would interfere with the character of Scarriff scape and would seriously injure the visual amenities of the area. They are concerned that a visual impact would arise in the locality from the development of a 21-metre-tall monopole structure, which is eleven metres taller than the structure it is proposed to replace. From the planning documentation submitted, the applicants state that the 21-metre height is necessary to optimise and future proof the 4G and 5G coverage within the northern part of Scarriff and within the hinterland catchment area.

8.6.2 Regarding the visual amenities of the area, the proposed telecommunications support structure and compound would be located within the north-eastern quadrant of the settlement of Scarriff, on the site of an established Eir exchange and established telecommunications lattice structure. The appeal site comprises the footprint of the existing exchange site and the replacement telecommunications compound would be located to its rear(north). No additional landscaping or mitigation works are proposed within the appeal site; however, in the event that planning permission is being granted by the Board, a planning condition should be

included whereby the mature planting along the perimeter of the appeal site should be retained to assist in assimilating the development within the local townscape.

8.6.3 The applicants would appear to acknowledge the potential adverse visual impacts may arise from the development and have submitted revised proposals as part of their appeal submission to reduce the proposed replacement telecom structures' height to 18 metres along with drawings and photomontages of the reduced height telecom's structure. The applicants state that this reduced height structure would provide strong indoor and outdoor 4G and 5G coverage within the northern part of Scariff but the coverage to the broader hinterland area would be reduced, below that of the 21-metre-tall structure.

8.6.4 I acknowledge that the structure is located in proximity to residential properties, particularly in the Derg View residential development to the north and north-east of the site. However, as set out within the alternatives section of this report above, the subject site is deemed to be the optimal one in this locality. I acknowledge that the proposed structure, by virtue of its height (21 metres or 18 metres) will be visible within the local townscape. However, the subject site is one of the least elevated sites within the settlement of Scariff and, therefore, visually would have least impact upon the town centre. There would be no intervisibility to/from the subject site to the Main Street or town centre ACA. The existing shrubbery and trees around the site perimeter provide some level of screening however, the replacement structure will be visible in the immediate locality, However, I consider that views from the east (along the R352) will be intermittent by virtue of the existing tree and hedgerow cover and, therefore, would not adversely impact views from Lough Derg to the east or the designated R352 scenic route, and neither will it adversely impact views from the town centre ACA. Notwithstanding, the replacement monopole structure will be visible from with the adjoining Derg View residential development, the structure has been designed as a slimline monopole with a diameter width ranging from 0.4 metres near the base of the pole to 0.3 metres near the tip and, therefore, I consider

that the design of the structure has been carefully considered and would not adversely impact the visual amenities of the area.

- 8.6.5 I note that the subject site is located adjacent to the designated 'scenic route' along the R352 located south-west of the subject site (as illustrated on Map ref. H5 of Volume 2 of the CDP). This scenic route continues eastwards along the R-352 to Mountshannon and westwards/south-westwards along Scarriff Main Street. The CDP does not provide an explanatory note for the selection of each individual scenic route; it does state that the purpose of these designations is to protect and conserve views adjoining public roads throughout the County where these views are of high amenity value. Whilst objective CDP14.7 seeks to protect sensitive areas from inappropriate development; it does not preclude development along scenic routes.
- 8.6.6 Having conducted a visual inspection of the appeal site and travelled along the R-352 route to Mountshannon, I did observe attractive views of Lough Derg further east of the appeal site along the R-352 road which I considered to be of high amenity value. However, I am satisfied that the proposed development would not interfere with these views due to the location and separation distance of the subject site from these viewpoints.
- 8.6.7 In terms of impact upon the townscape, the appeal site is located at a point where ground levels are amongst the lowest within the northern part of Scarriff and well below the ground levels along the Main Street/Market Square and the Connacht Road areas, located approximately 180 metres west and south-west of the subject site. It is necessary to achieve a balance between facilitating the provision of mobile telecommunications infrastructure and the need to protect residential, visual amenity and the natural and built environment. Having regard to the utilities land use zoning objective that pertains to the subject site in addition to the provisions of Objective 11.55 within the Development Plan which seeks 'to consider the provision of high speed, high capacity digital and mobile infrastructure within the County having regard to the provisions of the 1996 Telecommunications Guidelines and planning circular PL07/12 and with regard to appropriate environmental assessments'. The applicants also set out the need to work with and support key stakeholders to secure the implementation of key infrastructure NBP and to ensure that fast and effective

broadband facilities are available in all parts of the County. Therefore, a balance needs to be struck between the protection to be afforded to the townscape, and scenic routes and the telecommunications infrastructure policies and objectives set out within Section 11.8.9 within the CDP.

8.6.8 The applicant also submitted photomontages of the development for the 18-metre proposal as part of their appeal submission to the Coimisiún from a number of local viewpoints (six viewpoints) as part of their appeal submission. The applicants state that the montages demonstrate that there would be no visual impact from locations 2 and 5 at Market Square and further south-east of the site along the R352 designated scenic route, some visibility within the background and context of intervening vegetation and the local built environment with montages 1, 3, 4 and 6 which relate to images from along Connacht Road, within a housing development on the opposite (western) side of Connacht Road and further east of the town along the R352 Scenic Route. I would concur that these form a reasonably representative sample of the views of the structure from the selected viewpoints. I consider that its visibility and visual intrusiveness would not be significant from the vicinity of the selected viewpoints given the separation distance, the general built form within Scarriff with its varied roofscape, telephone and public lighting poles and wires and mature vegetation.

8.6.9 Where the structure will be visible within the settlement and the locality due to its 21-metre height, it will generally be seen against a backdrop of the intervening vegetation and the built environment in which the appeal site is set. Having regard to these characteristics of the appeal site and the wider area and noting that the 21 metre height is required to effectively function over as large an area as possible to facilitate co-location with other telecoms providers and to improve coverage for mobile telephony and data services, I do not consider that the magnitude of the impact of the proposed development on the visual amenities of the area would be so significant as to warrant refusal.

8.6.10 It is acknowledged that the telecommunications installation would impact upon the local townscape by virtue of the height of the monopole structure. On balance, while I acknowledge that the proposals will impact upon the local landscape, I am satisfied

that the impact would not be a significantly or materially adverse one, to warrant a refusal of planning permission.

8.6.11 In this instance, I am satisfied that the current proposals would facilitate the improvement of indoor mobile telephony and broadband services in this area, would assist in supporting the implementation of National guidance and local policy for the facilitation and improvement of telecommunication coverage and systems in this locality.

8.6.12 In conclusion, I accept the planning justification set out by the applicants, that the appeal site is appropriate for the erection of the replacement telecommunications infrastructure, having regard to the brownfield nature of the utilities site, the existence of the mature vegetation and trees in the vicinity of the site and the lack of availability of tall buildings within the settlement suitable for the siting of telecoms infrastructure. I do not recommend that permission be refused on grounds relating to landscape or visual impact.

8.7 Other Issues

Impact upon human health

8.7.1 A number of the observers raised the issue of potential human health impacts arising from the proposed development specifically in relation to radiation emissions and electromagnetic fields. Circular Letter PL07/12 issued by the Minister under Section 28 of the Planning and Development Act 2000, as amended, states that planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. The circular states that these matters are regulated by other codes and such matters should not be additionally regulated by the planning process.

8.7.2 The applicants have addressed the issue of 'health and safety' within their appeal submission where they state that 'ComReg is the licensing authority for the use of radio frequency in Ireland and are responsible for ensuring that communications operators comply with the licensed conditions relating to non-ionising radiation. The

existing and proposed installation and any future equipment is and will be fully compliant with the relevant health and safety legislation and will be operated in accordance with ComReg Guidelines'. As set out within paragraph 8.6.5 above, Planning Circular PL07/12 sets out that health issues are not a planning consideration in relation to telecommunication structures.

8.7.3 Having regard to the foregoing, I am satisfied that potential health effects are to be considered under a separate regulatory regime. Under Section 7.8 of the Development Management Guidelines (2007) it sets out the following 'It is inappropriate, however, in development management, to deal with matters which are the subject of other controls unless there are particular circumstances e.g. the matters are relevant to proper planning and sustainable development and there is good reason to believe that they cannot be dealt with effectively by other means'. Therefore, the Board are requested to avoid undue duplication with other codes. On the basis of the considerations above, I am satisfied that further consideration of health impacts is not necessary in this instance.

Devaluation:

8.7.4 A number of observers have raised the issue of devaluation of property as a result of the proposed development. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity

Alternative Proposal:

8.7.5 The applicants have submitted revised proposals as part of their appeal submission whereby they are proposing to reduce the height of the proposed monopole structure to 18 metres. The applicant has submitted revised drawings and a number of photomontages to illustrate the reduced 18 metre height structure. I consider that the proposed 21-metre-high structure is acceptable at this location in terms of visual and

residential amenity and that the applicants have justified its necessity in order to achieve improved 4G and 5G coverage in the northern part of Scarriff and the wider target catchment in the hinterland area and also to facilitate the accommodation of other telecommunications providers into the future on the same support structure, rather than duplicating the number of telecoms support structures in this vicinity. This is supported in both national and local planning policy and within the 1996 telecommunications guidelines.

- 8.7.6 The Board are entitled to consider the original monopole proposals with the 21-metre height or may wish to permit the reduced height 18 metre structure based on the assessment set out above. All parties have been given an opportunity to comment on the revised 18 metre height proposal in accordance with Section 131 of the Planning and Development Act 2000, as amended.

Validation:

- 8.7.7 The applicant has clarified as part of his further information response to the Planning Authority that it is proposed to remove the 10-metre-high wooden support pole structure occupied by Tetra Emergency services and for it to be replaced with the proposed 18/21metre monopole structure. The applicants have failed to state if the existing 12-metre-high wooden pole operated by Eir will remain in place. In the absence of clarity, and in the event that planning permission is to be granted by the Board, I would recommend that the existing 12 metre wooden pole structure (operated by Eir) should be removed. This would overcome the issue of duplication of telecommunications infrastructure within a single site. The PA did not invalidate the application or request revised public notices as part of the further information response and, therefore, were satisfied to determine the application as described within the public notices. I am satisfied that this error has not prevented parties from

making observations on this appeal. I also note that the observations received did not raise this particular matter as an area of concern.

Development Contribution

- 8.7.8 I note that Section D, table 2 (7) within the 2025 Clare Development Contributions Scheme provides for exemptions for telecommunications development that provide for broadband

The proposed development would, therefore, not appear to be liable for a contribution given that it would provide for improved indoor 4G and 5G mobile and broadband services.

8.8 Material Contravention

- 8.8.1 I note that the planning authority's reason for refusal states that the proposed development would be contrary to objectives 8.44 and 13.7 of the Clare CDP 2017 (now revised to objective 11.55 and objective 14.7) of the current Clare CDP 2023-29 and also to the provisions of the 1996 Telecommunications Guidelines. These objectives refer to the facilitation of the provision of high speed, high capacity digital and mobile infrastructure and the protection of scenic routes and are not, in my view, sufficiently specific so as to justify the use of the term "materially contravene" in terms of normal planning practice. I also note that none of the observations received specifically referenced the term 'material contravention' in their content. The Commission should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.

9.0 Appropriate Assessment (AA)-Screening

- 9.1 I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located approximately 1.3km northwest of Lough Derg (Shannon) Special Protection Area (SPA) (Site Code 004058) and approximately 2.3km south of Slieve Aughty Mountains SPA (Site Code 004168). The development description was set out within

Section 2 of the report above. Neither the observers nor the Planning Authority made reference to the potential for adverse impacts to arise upon Natura 2000 sites. The applicants did not submit an Appropriate Assessment (AA) Screening Report as part of their planning documentation. The PA also conducted an AA screening exercise, referenced in Section 2.3 of this report above.

9.2 The nearest European sites to the appeal site are the Lough Derg (Shannon) Special Protection Area (SPA) (Site Code 004058) and the Slieve Aughty Mountains SPA. I consider that the appeal site is not hydrologically/ecologically connected to either of these European sites, located south and east of the appeal site. There were no drainage ditches evident within the confines of the appeal site or along its boundaries. Therefore, I am satisfied that there is no apparent surface water hydrological link between the appeal site and these or any European site connected to the west or south of the site.

9.3 Given the nature of the site that has no requirements for connections to the public piped water services that no significant effect on water quality, or the qualifying interests or conservation objective of any European site are likely.

9.4 Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The relatively modest scale of the proposed residential development, which would connect to the public piped water services,
- The separation distance from the nearest European site and the lack of direct hydrological or ecological connectivity to any Natura 2000 site.
- The AA screening exercise conducted by the Planning Authority which concluded that either alone or in combination with other plans or projects, there would be no likely significant effects on any European sites.

9.5 I conclude that on the basis of objective information, the proposed development would not have a significant effect on any European site either alone or in

combination with other plans or projects. Likely significant effects are excluded and, therefore, Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

9.0 Recommendation

9.1 I recommend that planning permission be granted.

10.0 Reasons and Considerations

Regard is had to the provisions of:

- a. The National Planning Framework (as revised 2025),
- b. the Regional spatial and Economic Strategy for the Southern region,
- c. Guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July 1996, as updated by Circular Letter PL/07/12 issued by the Department of the Environment, Community and Local Government on the 19th day of October 2012,
- d. The policy objectives of the planning authority, as set out in the Clare County Development Plan 2023-2029, to support the provision of telecommunications infrastructure, including the UT2 'utilities' land use zoning objective that pertains to the site.
- e. The established telecommunications use on the site.
- f. The general topography and landscape features in the vicinity of the site,
- g. The existing pattern of development in the vicinity,

together with the location and siting of the proposed development within an existing telecommunications exchange, where existing telecommunications support pole structures would be replaced on land zoned UT2-utilities and within the settlement boundary of Scariff as per the provisions of the current Clare County Development Plan 2023-29. It is considered that the development would not seriously injure the visual or residential amenities of the area, including any views from along the

designated scenic route along the R352, would not be seriously detrimental to the character of the town, including the designated Architectural Conservation Area, The Board is satisfied based on the technical justification submitted by the applicant, that the indoor coverage provided within the northern part of Scariff and its hinterland area is inadequate. Therefore, having regard to the zoning objective of the site, which seeks to facilitate key infrastructure, including telecommunications, it is considered that more suitable alternative locations serving this population catchment are not available. The proposed development would be in accordance with specific objectives 11.55 and 14.7 of the Development Plan regarding the facilitation of high speed and high-capacity telecommunications infrastructure and would not adversely impact on the designated scenic route along R352, and 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 on the 13th day of December 2021 and as amended by the further plans and particulars submitted on the 26th day of September 2022 and those submitted to the Board on the on the 4th day of July 2024, except as may otherwise be required in order to comply with the following conditions., except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of a colour scheme for the monopole structure and any ancillary structures hereby permitted shall be submitted to, and agreed in writing

with the planning authority, prior to the commencement of development, and the agreed colour scheme shall be applied to the mast and any ancillary structures upon erection.

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

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

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

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

(b) A landscaping plan shall be submitted for the written agreement of the Planning Authority within three months of this grant of planning permission. The landscaping plan be implemented in full within the first planting season following completion of the works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. occupation of the dwelling.

Reason: In the interest of visual and residential amenity.

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

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

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

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

Reason: In the interest of public health.

- 7 The construction of the development shall be managed in accordance with a Construction Traffic and Environmental Waste 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, management of construction waste and materials on site, environmental control measures, including noise, dust and vibration management measures, working hours, construction traffic and parking, management of laying of independent foul sewer line, liaisons with neighbours during the construction period, measures for managing construction sediment run-off and off-site disposal of construction/demolition waste.

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

- 8 Within six months of the cessation of use the telecommunications structure and ancillary structures shall be removed, and the site shall be reinstated. Details relating to the removal and reinstatement 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.

- 9 The developer shall provide and make available at reasonable terms the proposed support structure for the provisos of telecommunications infrastructure of third part licensed telecommunications providers.

Reason: To avoid a multiplicity of telecommunications structures in the area, in the interest of visual amenity and the proper planning and sustainable development of the area.

- 10 The existing ten and twelve metre wooden support pole structures shall be removed from the land holding within one month of the commissioning of the new 21 metre replacement monopole telecommunications support structure. Written correspondence shall be submitted to the Planning authority upon their removal including photographic evidence of their removal.

Reason: To avoid a multiplicity of telecommunications structures in the area, in the interest of visual amenity and 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.

Fergal Ó Bric
Planning Inspectorate

1st day of October 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	322695-25
Proposed Development Summary	Planning permission for the replacement of a 10-metre-high wooden pole with a 21-metre-high telecommunications monopole and associated equipment
Development Address	Eir Exchange, Connacht Road, Ballyminoge, Scariff, Co. Clare

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	x
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	Tick/or leave blank			
No	Tick or leave blank	Telecommunications structures are not specified as being within a class of development within Parts 1 or 2, Schedule 5 of the P & D Regulations.	x	
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?				
Yes	Tick/or leave blank			
No	Tick/or leave blank		X	
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?				
Yes	Tick/or leave blank	Proposals relate to the replacement of a 10-metre-high wooden pole with a 21-metre-high telecommunications monopole and associated equipment	X	
5. Has Schedule 7A information been submitted?				

No	Tick/or leave blank	X
Yes		

Inspector: _____

Date: _____