



An
Coimisiún
Pleanála

Inspector's Report

ACP-324112-26

Development	Section 254 license for 20m telecommunications streetworks solution and associated ancillary ground cables
Location	Grass verge along R240, Quigleys Point, Co. Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	26.02
Applicant(s)	Phoenix Tower III Ireland Ltd.
Type of Application	Section 254 Licence.
Planning Authority Decision	Refuse Licence.
Type of Appeal	First Party
Appellant(s)	Phoenix Tower III Ireland Ltd.
Observer(s)	None.

Date of Site Inspection

27th of April 2026.

Inspector

Stephanie Farrington

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1.0 Site Location and Description

- 1.1. The appeal site is located on a grass verge on the south side of the R240, Quigleys Point. The site is located within the settlement boundary of Quigley's Point, a village situated on the western shore of Lough Foyle, at the southeastern end of the Inishowen Peninsula. Quigley's Point is a low-density dispersed settlement, mainly consisting of detached dwellings. Services and facilities within the settlement include licenced premises, takeaway, village shop and caravan park.
- 1.2. The R240 operates within a speed limit of 80kmph in the vicinity of the site and runs from Quigley's Point to Carndonagh to the north. An existing electricity pole is located within the grass verge.
- 1.3. Existing development in the vicinity of the site includes 3 no. detached houses at the opposite side of the R240 to the north. The closest dwelling is c.38m to the north. Existing dwellings at Point Manor are located to the south of the site. The closest dwelling at Point Manor is located c.40m from the proposed mast.

2.0 Proposed Development

- 2.1. The Section 254 licence is for a 20m telecommunications streetworks solution and associated ancillary ground cables on the grass verge along the R240. The proposal includes 2 no. cabinets including an Operator's TFL Cabinet (0.6m wide x 1.61m high and 0.6m in depth) and RFE Cabinet (0.62m wide x 1.25m high and 0.25m in depth).

3.0 Planning Authority Decision

3.1. Decision

Donegal County Council refused the licence in accordance with the following reasons and considerations:

1. Under the Planning and Development Act 2000 (as amended) Section 254 (7) states that "Development carried out in accordance with a licence under this section shall be exempted development for the purposes of this Act" and Section 254 (8) states that "A person shall not be entitled solely by reason of

a licence under this section to erect, construct, place or maintain on, under, over or along a public road any appliance, apparatus or structure. Following an assessment of the Section 254 licence application the planning authority considers that the development of a 20m telecommunications mast is not exempted development under Schedule 2, Part 1, Exempted Development – General Class 31 of the Planning and Development Regulations as the total height exceeds 12m and therefore requires permission to erect the proposed telecommunications structure.

2. The licence is for the erection of a 20m telecommunications streetworks solution and associates ancillary ground cables at the R240, Quigleys Point, Co. Donegal on the national primary road network where the 100kph speed limit applies. On the basis of the information submitted, the planning authority considers the proposed development would constitute a traffic hazard due to the lack of an off-road vehicle access point to the proposed telecommunications structure therefore to permit same would adversely effect safety on the R240.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's Report (14/01/2026)

The planner's reports recommends that the Section 254 licence is refused in accordance with the reasons cited within the planning authority's decision. The following provides a summary of the main points raised:

- The report cross refers to the concerns raised within the Road's Engineers Report dated 06/01/26 in relation to the siting of the structure along a busy arterial road to North Inishowen and lack of layby/parking for maintenance in the vicinity of the site.
- The report outlines that the development of a 20m telecommunications mast would not be considered exempted development under Schedule 2, Part 1, Exempted Development – General, Class 31 of the Planning & Development

Regulations as the total height has exceeded 12m and therefore would require a planning application.

- The report recommends that the Section 254 licence is refused.

3.2.2. Other Technical Reports

Roads and Transportation (06/01/2026):

- The report raises concern in relation to the location of the structure on a busy Arterial Road to North Inishowen which does not have a layby or other means of parking for maintenance of the structure. The report outlines that in the absence of a layby an extension of the existing footpath to the southeast of this structure will be required.
- Due to the structure's location in relation to the road edge safety concerns were raised with regards to the structure becoming a roadside hazard which would require a suitable Vehicle Restraint System to be put in place. It is noted that other structures of this type require a minimum setback from any party boundary (i.e. Structure's height plus 5m) therefore there should be a minimum distance of 25m from the Roadside Boundary, this would prevent the road being blocked in the event the structure were to collapse.

3.3. Third Party Observations

None.

4.0 Planning History

On Site

None.

Wider Quigleys Point Area

The following is of relevance within the Quigleys Point area:

- ABP Reference: 322282-25, PA Ref: 2462074: Permission refused for 21m lattice telecommunications antennae support structure at Tromaty, Quigley's Point in August 2025 in accordance with the following reasons and considerations:

“The proposed development would comprise the installation of a 21-metre-high lattice telecommunications antennae structure on the periphery of a small village at Quigley’s Point. It would be located within an area that is designated as being within an “Area of High Scenic Amenity” and “Under Strong Urban Influence”, in the County Donegal Development Plan 2024 2030, and close to an “Area of Especially High Scenic Amenity”. Objective TC-O-1 and Policies TC-P-2, L-P-1 and L-P-2 apply in relation to appropriate siting and visual impacts of such structures. The proposed structure would be visually dominant and would have an adverse visual impact on the small village, surrounding high amenity landscapes and nearby coastal area. Furthermore, having regard to the presence of an existing telecommunications structure in the area, also on the periphery of the village, the proposed development would give rise to a proliferation of telecommunication structures in and around Quigleys Point. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.

- ACP Ref: 322991-25, PA Ref 2560635: Permission granted in October 2025 for proposed 3m extension of existing 18 m high telecommunications monopole support structure (providing new overall height of 22m to top of lighting finials) at Eir Exchange, Carrowkeel, Quigleys Point.

Wider Donegal Area

- ACP Ref: LC05E.306033-19, PA Ref: PL19/06: The first party appeal refers to a licence granted by ACP in May 2020 for a freestanding galvanised pole structure and antennae with an overall height of 15 m and associated operator cabinet at Doctor McGinelly Road, Ballyrobe, Glencar, Letterkenny.

5.0 Policy Context

5.1 Development Plan

County Donegal Development Plan 2024-2030

- 5.1.1. The appeal site is located in a rural area on the edge of Quigleys Point. The County Donegal Development Plan 2024-2030 is the operative Development Plan for the area. The Development Plan took effect on the 26th of June 2024 except for those

parts of the Plan which are subject to a Draft Ministerial Direction. The Draft Ministerial Direction was issued on the 26th of June 2024 and relates to land use zonings in a number of settlements and separately to text relating to national / regional road access. I am satisfied that the Draft Ministerial Direction has no direct implications for the appeal site.

- 5.1.2. Chapter 8 of the Development Plan relates to Infrastructure. Section 8.3 relates to telecom infrastructure. This outlines that: *“High-speed telecommunications networks are key elements to the economic and social development of the County. High-speed broadband and telephony services support all economic sectors, provide universal access to public services, are crucial to the national and international exchange of goods and services, and act as a catalyst in changing economic interrelationships through rapid technological change”*.
- 5.1.3. Chapter 21 relates to Settlement Frameworks for the County. The site is located within the settlement boundary of Quigley’s Point as illustrated on Map 21.39. Quigley’s Point is designated as a ‘rural settlement’, which is a level 4 settlement under the county’s settlement hierarchy.
- 5.1.4. No particular zoning objectives apply within the boundary for Quigley’s Point however CDP Policy CS-P-1 states that: *within the boundaries of settlements identified Settlement Framework boundaries, applications for development will be assessed in the light of all relevant material planning considerations including any identified land use zonings, availability of infrastructure, relevant policies of the Development Plan/Local Area Plan as applicable, other regional and national guidance/policy and relevant environmental designations”*.
- 5.1.5. Map 11.1 of the Development Plan illustrates “Scenic Amenity” Areas within the County. The appeal site is located within an Area of High Scenic Amenity.
- 5.1.6. The following policies and objectives are of relevance to the proposal:
- Objective TC-O-1: seeks to facilitate the development & delivery of a sustainable telecommunications network through a range of telecommunication systems including those arising out of: NSO 6 of the National Development Plan (NDP); the Government’s ‘Harnessing Digital-The Digital Ireland Framework’; and the National Broadband Plan, the National subvention plan to deliver High Speed Broadband to every rural household

outside the commercially served areas as defined on the National Broadband Plan Map, subject to having due regard to natural and built heritage and to environmental considerations.

- Policy TC-P-2: seeks the co-location of new or replacement antennae & dishes on existing masts as a first preference, and the co-location and clustering of new masts on existing sites as a second preference, unless a fully documented case for new facilities is made explaining the precise circumstances which militate against co location and/or clustering. Proposals for replacement antennae and dishes, support structures & associated access roads shall be generally supported where they can be sited & located in a manner that does not negatively impact on the visual amenities, built & archaeological heritage or qualifying interest of any given area.
- Policy L-P-2: seeks to protect areas identified as 'High Scenic Amenity' and 'Moderate Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas, only development of a nature, location & scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan.
- TC-P-3: Where it has been established that co-location or clustering is not possible in accordance with the requirements of Policy TC-P-2 it is a policy of the Council that such new telecommunications antennae and support structures and associated access roads shall be located in accordance with the provisions of the 'Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996', (or as may be amended) and that such structures shall not normally be supported within Areas of Especially High Scenic Amenity, beside schools, protected structures or archaeological sites and other monuments. Within towns and villages operators shall be encouraged to locate in industrial estates/areas where possible.
- Policy BIO-P-1: requires compliance with the requirements of the EU Habitats Directive and EU Bird Directive, including ensuring that development proposals: a. Do not adversely affect the integrity of any European/Natura 2000. b. Provide for the protection of protected animal & plant species. c.

Protect & enhance features of the landscape (i.e. rivers, field boundaries, ponds & small woods) that are important for wildlife the Natura 2000 network.

5.2. Planning and Development Act 2000 (as amended)

Section 254

5.2.1. Section 254(1) (ee) of the Planning & Development Act, 2000 (as amended), states that a person shall not erect, construct, place or maintain overground electronic communications infrastructure and any associated physical infrastructure on, under, over or along a public road save in accordance with a licence under this section. Section 254(6)(a) states that any person may appeal to the Board in relation to the granting, refusing, withdrawing or continuing of a licence. Section 254(5) states that, in considering an application for a licence, the planning authority, or the Board on appeal, shall have regard to:

- (a) The proper planning and sustainable development of the area,
- (b) Any relevant provisions of the development plan, or a local area plan,
- (c) The number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and,
- (d) The convenience and safety of road users, including pedestrians.

5.2.2. I consider the site is along the public road, as defined in section 2(1) of the Roads Act, 1993 (as amended). The site is located on a grass margin adjacent to the R240. A margin is included in subsection (c) of the definition of a 'road'. Therefore, I consider section 254 is the appropriate mechanism for the proposed development.

5.3. Planning and Development Regulations 2001, as amended

5.3.1. The Planning Authority's decision refers to Schedule 2, Part 1, Exempted Development – General Class 31 of the Planning and Development Regulations as follows:

Class 31

The carrying out by a statutory undertaker authorised to provide a telecommunications service of development consisting of the provision of—

(b) overhead telecommunications including the erection of poles or other support structures or the use of existing poles or other support structures,

Conditions and Limitations

- 1. Poles or other support structures carrying overhead lines shall not exceed 12 metres in height.*
- 2. Poles or other support structures carrying other equipment shall not exceed 12 metres in height and 0.6 metres in diameter measured at the widest point, where “other equipment” means 2 transmitting or receiving dishes (the diameter of which shall not exceed 0.6 metres), or 1 panel antenna (the dimensions of which shall not exceed 0.85 metres in length x 0.65 metres in width x 0.2 metres in depth) used for the provision of a specific telecommunications service and the provision of which would otherwise require an additional pole route carrying overhead wires.*
- 3. Where a pole or poles or other support structures carry radio transmitting or receiving apparatus, the field strength of the non-ionising radiation emissions from that installation shall not exceed the limits specified by the Commission for Communications Regulation.*

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

- 5.4.1. These guidelines set out the criteria for the assessment of telecommunications structures.
- 5.4.2. Section 3.2 sets out that an authority should indicate in their Development Plan an acceptance of the importance of a high-quality telecommunications service, as well as any locations where telecommunications installations would not be favoured or where special conditions would apply. Such locations might include high amenity lands or sites beside schools.
- 5.4.3. Section 4.3 outlines that the visual impact is among the more important considerations which have to be taken into account in arriving at a decision on a particular application. Whatever the general visual context, great care will have to be taken when dealing with fragile or sensitive landscapes. The sharing of installations and clustering of antennae is encouraged, as co-location would reduce the visual impact on the landscape.

5.4.4. Section 4.5 states that only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages, within 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.

5.5. **Circular Letter PL07/12 – Telecommunications Antennae & Support Structures 2012:**

5.5.1. The circular revises elements of the 1996 Guidelines as follows: - temporary permissions should only be used in exceptional circumstances where particular site / environmental conditions apply; separation distances between telecommunication structures and sensitive receptors should not be incorporated into statutory plans; bonds for the removal of structures should not apply; and a register of approved structures should be maintained.

5.6. **Natural Heritage Designations**

The site is not located in or adjacent to a European site. The nearest designated sites to the appeal site include the following:

- Lough Foyle SPA (Site Code 004087) – 450m to the south;
- Camowen River Bog NHA (Site Code 002405) – 6km west;
- Magheradrumman Bog SAC (Site Code 000168) – 5.8km north;
- Magheradrumman Bog Proposed Natural Heritage Areas (p NHA) (Site Code 000168): 7.8km north;

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A first party appeal in respect of the decision of DCC to refuse the Section 254 licence application was submitted on behalf of the applicant. The following provides a summary of the main grounds of appeal.

Reason for Refusal 1:

- The appeal refers to the examples cited within the Planning Statement submitted in support of the application where S.254 licences have been approved by An Coimisiún Pleanála for similar infrastructure.
- The appeal refers to the decision issued by DCC under PA Ref. PL19/06 for a streetpole and operator cabinet at Doctor McGinley Road, Ballyboe, Glencar, Letterkenny. This decision was upheld by An Coimisiún Pleanála (ACP Ref: LC05E.306033-19).
- The appeal outlines that the legitimacy of the Section 254 licence application was not questioned in the instance of PA Ref: PL19/06 and questions why exempted development is considered to be the key determinant.
- The Commission is requested to dismiss the reason for refusal.

Reason for Refusal no. 2: Traffic Hazard

- The appeal outlines that the site is located on a the R240 Regional Road, with an applicable speed limit of 80kmph, and not a national route within a 100km ph limit as referred to within the 2nd reason for refusal. The opening statement in the reason for refusal is therefore deemed to be inaccurate.
- The appeal outlines that there is no requirement for an off-road vehicular access point for maintenance of the telecommunication structure. The appeal outlines that no such provision has been made by the applicant for similar developments or requested by Planning Authorities or An Coimisiún Pleanála. There is no requirement for such provision as the need to access the structure once operational is minimal including annual maintenance. Such visits involve an engineer parking in a safe location and walking to the site. The appeal refers to the presence of a layby on the opposite side of the R240.

Conclusion

- The appeal outlines that DCC's reasons for refusal do not hold up to scrutiny.
- The reference to exempted development is considered unreasonable and has never been applied to any previous applications of this nature. Concerns in

relation to traffic hazard are based on incorrect facts and considered unreasonable given the limited visits required to the structure.

- The Commission is requested to grant the licence application.

6.2. Planning Authority Response

Donegal County Council provided a response to the grounds of appeal. The following provides a summary of the key points raised:

- The contents of the 1st party appeal are noted and the matters raised are addressed within the planner's report dated 14/01/26.
- The planning authority is satisfied that the proposed telecommunication structure is not exempted development and that the location and point of access to the proposed infrastructure site would create a traffic hazard given its location on a blind bend and on a fast and busy Regional Road.

7.0 Assessment

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

- Reason for Refusal no. 1 – Legislative Context
- Compliance with Section 254
- Reason for Refusal no. 2 – Traffic Hazard

In addition to the above, the issue of Appropriate Assessment Screening is addressed in Section 8 of this report and the Water Framework Directive is addressed within Section 9 of this report.

7.2. Reason for Refusal no. 1

7.2.1. Donegal County Council's first reason for refusal outlines the following:

“Under the Planning and Development Act 2000 (as amended) Section 254 (7) states that “Development carried out in accordance with a licence under this section shall be exempted development for the purposes of this Act” and Section 254 (8)

states that “A person shall not be entitled solely by reason of a licence under this section to erect, construct, place or maintain on, under, over or along a public road any appliance, apparatus or structure. Following an assessment of the Section 254 licence application the planning authority considers that the development of a 20m telecommunications mast is not exempted development under Schedule 2, Part 1, Exempted Development – General Class 31 of the Planning and Development Regulations as the total height exceeds 12m and therefore requires permission to erect the proposed telecommunications structure”.

- 7.2.2. The first party appeal questions why the provisions of exempted development are considered to be the key determinant in the instance of the proposal. The first party appeal refers to a Section 254 licence granted by ACP in May 2020 (ACP Ref: LC05E.306033-19, PA Ref: PL19/06) for a freestanding galvanised pole structure and antennae with an overall height of 15 m and associated operator cabinet at Doctor McGinelly Road, Ballyrobe, Glencar. It is stated that the legitimacy of the Section 254 licence was not questioned in this instance.
- 7.2.3. Section 5.2 of the Planning Statement submitted in conjunction with the application refers to the distinction between Section 254 of the Planning and Development Act and Class 31 of the Planning and Development Regulations. The report outlines that the key differentiating element of the Section 254 legislation is that it refers to Public Roads whilst the Class 31 exemptions refer to Private Lands and associated ‘Exemptions’. The report outlines that there are no height limitations provided for under Section 254 of the Act.
- 7.2.4. Section 254 of the Act outlines the provisions in relation to the licensing of appliances and cables etc on public roads. Where development of a type specified in section 254(1) of the Act is proposed to be carried out on a public road, approval for the works is required from a planning authority, by means of the obtaining of a Section 254 licence. I consider the site is along the public road, as defined in section 2(1) of the Roads Act, 1993 (as amended). The site is located on a grass margin adjacent to the R240. A margin is included in subsection (c) of the definition of a ‘road’. Therefore, I consider Section 254 is the appropriate consent mechanism for the proposed development. No height limitations are set out under Section 254 of the Act.

7.2.5. I therefore do not consider that the licence should be refused in accordance with the Planning Authority's first reason for refusal. I have considered the development on its merits and in accordance with the provisions of Section 254 of the Planning and Development Act, as amended, as follows.

7.3. Compliance with Section 254 of the Planning and Development Act, as amended

7.3.1. Section 254(5) of the Planning and Development Act states that, in considering an application for a licence, the planning authority, or the Board on appeal, shall have regard to the following:

- (a) The proper planning and sustainable development of the area,
- (b) Any relevant provisions of the development plan, or a local area plan,
- (c) The number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and,
- (d) The convenience and safety of road users, including pedestrians.

7.3.2. I have considered the development on its individual merits and in accordance with the provisions of Section 254 of the Planning and Development Act as follows:

- (a) *The proper planning and sustainable development of the area &*
- (b) *'any relevant provisions of the development plan, or local area plan'.*

7.3.3. The site is located within the administrative boundary of Donegal County Council. The County Donegal Development Plan 2024-2030 is the operative plan for the area. The Development Plan is supportive of the provision of telecommunication infrastructure. The provision of telecommunications infrastructure is supported at national, regional and county level in the interest of enhancing economic and social development. Objective TC-O-1 of the County Development Plan: *"seeks to facilitate the development & delivery of a sustainable telecommunications network through a range of telecommunication systems including those arising out of: NSO 6 of the National Development Plan (NDP); the Government's 'Harnessing Digital-The Digital Ireland Framework'; and the National Broadband Plan, the National subvention plan to deliver High Speed Broadband to every rural household outside the commercially*

served areas as defined on the National Broadband Plan Map, subject to having due regard to natural and built heritage and to environmental considerations”.

Technical Justification

- 7.3.4. The Planning Statement submitted in support of the application sets out a technical justification for the proposed structure. Section 3.2.1 of the Planning Statement outlines that the site is required in order to improve network coverage, indoor coverage, to a black spot within the area. The report outlines that an overall height of 20m is required in Quigley’s Point in order to provide the required coverage and to clear local obstacles that would cause network interference. The new site would improve 4G and 5G coverage.
- 7.3.5. The Planning Statement outlines that the development would result in a significant increase in coverage in the area. Section 3.2.3 and Figure 6 and 7 of the Planning Statement addresses existing and proposed coverage in the area. The ComReg outdoor coverage mapping tool shows that the village of Quigley’s Point and its general vicinity currently experiences ‘Very Good’ 4G and 5G coverage through Eir, ‘Very Good’ 4G coverage and Fringe to No Coverage for 5G through Vodafone. Coverage for Three ranges from “Fringe” for 4G and “Fringe” to “No Coverage” for 5G. The Planning Statement outlines that the development will improve 4G and 5G services in the area.

Siting of Proposed Structure

- 7.3.6. Policy TC-P-2 of the Development Plan relates to the siting of telecommunications infrastructure and seeks *“the co-location of new or replacement antennae & dishes on existing masts as a first preference, and the co-location and clustering of new masts on existing sites as a second preference, unless a fully documented case for new facilities is made explaining the precise circumstances which militate against co location and/or clustering”*. The Planning Statement stated that Three Ireland has a policy to co-locate into existing telecommunications structures where possible.
- 7.3.7. The Planning Statement details 3 no. alternative locations were considered, the locations of which are illustrated in Figure no. 5. The options considered included Existing Three, EIR and VF structures 5.7km (Option 1) and 11.3km (Option 2). Both of these options were discounted on grounds of distance from the area. The report also considers the existing EIR and Vodafone mast c.300m away. The report

outlines that this would not be suitable due to lack of available height to cover black spot area (available slot at 9-12m). In this regard it is stated that Vodafone operate at the 15-18m slot, EIR are at the 12-15m slot and the available slot for Three would be the 9-12m slot which would be insufficient to cover the black spot area.

- 7.3.8. I refer to Option 3 as referred to within the application documentation, the existing mast at Foyle View Point, Carrowkeel, Quigleys Point. As detailed within Section 4 of this report permission was granted for a 3m extension of this telecommunications structure (from 18m to 21m) under ACP Ref:322991-25 in October 2025. The application documentation for submitted in support of the extension to the mast outlines that the site currently accommodates Eir and Vodafone and the proposed extension to the structure is to accommodate an additional operator. The decision of the Commission to grant permission for the 3m extension to the mast sets out the following rationale for the decision: *“The Commission noted the applicant’s submission, by way of justification for the proposal, that the existing telecommunications structure on site, in the absence of the proposed three metre increase in height, would be unable to accommodate an additional/third mobile operator. The Commission considered that the proposed development would facilitate the co-location of new or replacement antennae and dishes on an existing mast and would thereby contribute to the prevention of the proliferation of telecommunications structures in and around Quigley’s Point”.*
- 7.3.9. I do not consider that the applicant in this instance has given sufficient consideration to co-location with the existing permitted mast within the immediate vicinity of the site. Policy TC-P-3 of the County Donegal Development Plan requires consideration of the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996. The 1996 Guidelines state that that only as a last resort should free-standing masts be located within or in the immediate surrounds of smaller towns or villages, that 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, and that the support structure should be kept to the minimum height consistent with effective operation.
- 7.3.10. Having regard to the government’s guidelines on Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DoE, 1996 and the guidance set out there in that free standing masts should only be located within or in the

immediate surrounds of smaller towns and villages as a last resort and the provisions of Policy TC-P-3 of the County Donegal Development Plan, I consider that insufficient technical justification and evidence has been provided in respect of alternative sites, to support the location of the development. In particular, I consider that the application does not sufficiently address the capacity of the existing telecommunication mast at Foyle View Point, Carrowkeel, Quigleys Point to cater for the black spot area. The applicant's justification for the dismissal of this site does not acknowledge the extension to this mast as permitted under ACP Ref: 322991-25.

- 7.3.11. Policy TC-P-2 of the County Donegal Development Plan 2024 – 2030 specifically requires the co-location of antennae on existing telecommunications structures. In the absence of sufficient information to demonstrate potential options for co-location, it is considered, that the proposed development would be contrary to government guidelines, to Policies TC-P-2 and TC-P-3 of the County Development Plan 2024-2030 and to the proper planning and sustainable development of the area.
- 7.3.12. I recommend that the licence should be refused on the basis of the above. This is a new issue. The Commission may wish to seek the views of the parties.

Visual and Residential Amenity

- 7.3.13. Policy L-P-2 of the County Donegal Development Plan: seeks to protect areas identified as 'High Scenic Amenity' and 'Moderate Scenic Amenity' on Map 11.1 'Scenic Amenity'. Within these areas, only development of a nature, location & scale that integrates with, and reflects the character and amenity of the landscape may be considered, subject to compliance with other relevant policies of the Plan.
- 7.3.14. The site is located within Quigley's Point, a village situated on the shoreline of Lough Foyle. The site lies within a designated 'Area of High Scenic Amenity' and within c. 100m of an 'Area of Especially High Scenic Amenity', a designation that generally applies to the land between the R238 and the shoreline of Lough Foyle. In terms of visual amenity, I am of the view that the proposed location is acceptable. Having regard to the existing streetscape and receiving environment, I do not consider that the proposed monopole, cabinet, or ancillary works would have any significant adverse visual
- 7.3.15. The closest dwellings are located c.38m to the north and c.40m to the south. I consider that such distances are sufficient to negate against impact on residential

amenity. I acknowledge that the structure would be visible, however when considering other infrastructure like electricity infrastructure and overhead lines, it would not be so obtrusive or discordant that it would seriously injure the visual or residential amenity of the receiving environment. It is not directly outside any house or entrance to a residential estate.

- *(c) The number and location of existing appliances, apparatuses or structures on, under, over or along the public road, and.*

7.3.16. In relation to (c), the site is located along a national road on the outskirts of Quigley's Point. There are standard traffic signals, overhead poles and wires and limited signage within the vicinity of the site. I do not consider there is an overconcentration of appliances, apparatuses, or structures along the road, or that the proposed development would unacceptably increase the number of such appliances etc.

- *(d) The convenience and safety of road users, including pedestrians, that shall be considered*

7.3.17. I consider this issue under the following section of this report in addressing Donegal County Council's 2nd reason for refusal.

7.4. Reason for Refusal no. 2 – Traffic Hazard

7.4.1. The planning authority's 2nd reason for refusal raises concern in relation to traffic hazard associated with the development as follows:

"The licence is for the erection of a 20m telecommunications streetworks solution and associates ancillary ground cables at the R240, Quigleys Point, Co. Donegal on the national primary road network where the 100kph speed limit applies. On the basis of the information submitted, the planning authority considers the proposed development would constitute a traffic hazard due to the lack of an off-road vehicle access point to the proposed telecommunications structure therefore to permit same would adversely effect safety on the R240".

7.4.2. The reason for refusal reflects the concerns raised within Donegal County Council's Roads and Transportation Report dated 06/01/26.

7.4.3. The site is located on the grass verge along the R240. On site inspection I note that the R240 is a regional road which operates within a speed limit of 80 kmph within the

vicinity of the site. The site is located within close proximity to the 60 kmph speed zone of Quigleys Point.

- 7.4.4. Considerations under Section 254(5) of the Planning and Development Act include (d) The convenience and safety of road users, including pedestrians, that shall be considered. In relation to (d), I refer to the report on file from the Roads and Transportation Department in Donegal County Council which raises concern in relation to traffic hazard associated with the development. The reason for refusal outlines that the proposal would constitute a traffic hazard on the basis of the lack of an off-road vehicle access point to the structure.
- 7.4.5. The appeal outlines that there is no requirement for an off-road vehicular access point for maintenance of the telecommunication structure. The appeal outlines that the need to access the structure once operational is minimal including annual maintenance. Such visits involve an engineer parking in a safe location and walking to the site. The appeal refers to the provision of a lay by at the opposite side of the R240 in the vicinity of the site.
- 7.4.6. Having regard to the nature of the development and having carried out a site inspection, I do not consider that access to the structure would result in a traffic hazard. The site is located within an existing grass verge adjacent to the R240. There would be no impact on pedestrian activity given its proposed location within an existing grass verge. I consider that the existing layby within the immediate vicinity of the site at the opposite side of the R240 would be sufficient to facilitate any maintenance and servicing of the development. I note the reference in DCC's Roads Report to the requirement for an extension to the existing footpath to the southeast of the structure in the absence of a lay by. I consider that this could be addressed by means of condition in the instance that the Commission is minded to approve the licence.
- 7.4.7. I furthermore note the concerns raised within the Roads and Transportation report in terms of roadside hazard due to inadequate set back from the R240. The report refers to a requirement for a setback of 25m from the roadside boundary to prevent the road being blocked in the event the structure were to collapse. In considering the concern raised I note that the proposed structure would be fixed to the ground as illustrated on drawing no. DO226-103A and consider that instances of collapse

would be unlikely. I also refer to the purpose of Section 254 which relates to electronic communications infrastructure and any associated physical infrastructure on, under, over or along a public road. The legislation does not set out requirements for minimum setbacks from the public road.

- 7.4.8. In conclusion, I do not consider that the development would result in traffic hazard as cited within the Planning Authority's second reason for refusal. I do not recommend that the licence is refused on this basis.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended. The site is not located within or immediately adjacent to any European Sites. The closest European Site, part of the Natura 2000 Network, is the Lough Foyle SPA (Site Code: 004087), located c. 400 m to the southeast of the site. The proposed development is located within an urban settlement and comprises the construction of a 20m telecommunications structure with associated equipment cabinet. The development would not require connections to public services such as water and sewerage.
- 8.2. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:
- The nature and scale of the development proposed.
 - The location of the site in a serviced urban area, the distance from European Sites, the urban nature of intervening habitats, and the absence of meaningful ecological pathways to any European Site.
- 8.3. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required'.

9.0 Water Framework Directive

- 9.1. There are no watercourses in the immediate vicinity of the appeal site. The proposed development comprises a telecoms mast and associated equipment cabinet. No water deterioration concerns were raised by Donegal County Council.
- 9.2. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.
- 9.3. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive.
- 9.4. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

10.0 Recommendation

- 10.1. I recommend that the proposed Section 254 licence is refused in accordance with the following reasons and considerations.

11.0 Reasons and Considerations

1. Policy TC-P-3 of the County Donegal Development Plan 2024-2030 requires consideration of the Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities 1996. Having regard to the government's guidelines on Telecommunications Antennae and Support Structures, Guidelines for Planning Authorities, DoE, 1996 and the guidance set out there in that free standing masts should only be located within or in the immediate surrounds of smaller towns and villages as a last resort, it is considered that insufficient technical justification and evidence has been provided in respect of alternative sites, to support the location of the development. In particular, it is considered that the application does not sufficiently address the capacity of the existing telecommunication mast at Foyle View Point, Carrowkeel,

Quigleys Point to cater for the black spot area. An extension to this mast as permitted under ACP Ref: 322991-25. Policy TC-P-2 of the County Donegal Development Plan 2024 – 2030 specifically requires the co-location of antennae on existing telecommunications structures. In the absence of sufficient information to demonstrate potential options for co-location, it is considered, that the proposed development would be contrary to government guidelines, to Policies TC-P-3 and TC-P-2 of the County Donegal Development Plan 2024-2030 and to 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.”

Stephanie Farrington
Planning Inspectorate

14th of May 2026