



An
Coimisiún
Pleanála

Inspector's Report ACP-324177-26

Question

Whether the unlicensed felling of trees and laying of hardcore / stone chippings is or is not development or is or is not exempted development

Location

Killaspugbrone, Strandhill, Co. Sligo

Declaration

Planning Authority

Sligo County Council

Planning Authority Reg. Ref.

ED 627

Applicant for Declaration

Áine Nic Amhlaidh

Planning Authority Decision

Is not development

Referral

Referred by

Áine Nic Amhlaidh

Owner/ Occupier

Signal Infrastructure Ltd.

Observer(s)

None

Date of Site Inspection

17th July 2026

Inspector

Philip Maguire

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1.0 Introduction

- 1.1. This case relates to a referral by Áine Nic Amhlaidh under Section 5(3)(a) of the Planning and Development Act 2000, as amended ('the Act'), in respect of a declaration made by Sligo Co. Co. regarding lands at Killaspugbrone, Strandhill, Sligo.
- 1.2. This Inspector's Report (IR) and recommendation is made pursuant to Section 376(3) of the Planning and Development Act 2024, as amended ('the 2024 Act'). An Coimisiún Pleanála ('the Commission') is required to consider both before determining the case.

2.0 Site Location and Description

- 2.1. Located off and to the eastern side of the R277, due south of the terminal buildings at Sligo Airport, the referral site is situated to the northern periphery of Strandhill, Sligo, some 1km northeast of the seafront promenade. The immediate surrounding area is characterised by forestry and agricultural land with various commercial units at the enterprise centre between the site and airport. Knocknarea is visible to the southeast.
- 2.2. The referral site is accessible via a gravel track which also serves some agricultural land to the south and east. The referral site includes a telecoms compound with lattice-type tower, cabinets and ancillary structures, enclosed by palisade fencing and surrounded by rough pasture and recolonising willow. There is a short section of hardstand to the immediate north of the compound with mature conifers to the west.

3.0 The Question

- 3.1. The matter has been referred by a third party. A letter enclosed with the referral and dated 16th February 2026 indicates that the planning authority received the request on 13th February 2026. In the absence of a Section 5 application form or a copy of the aforementioned correspondence received by the planning authority on 13th February 2026, I rely on the Planner's Memo, Chief Executive's Order and subsequent declaration issued by the planning authority which were all enclosed with the referral.
- 3.2. They indicate that a declaration was requested for:
 1. *Unlicensed Felling of Mature Trees (Approx. 30 Cubic Metres)*
 2. *Subsequent Topping and Reduction of Remaining Trees*

3. *Non-Compliance with Planning Condition – Underground Cabling*
4. *Conflict with the Sligo County Development Plan – Landscape Protection*
5. *Proximity to Recorded Monument (Neolithic Tomb – 80 metres) Impact on National Monument (SL013-003)*
6. *Proximity to Special Area of Conservation (SAC)*
7. *Telecommunications Siting Principles*

3.3. In addition to the acknowledgement letter, Planner's Memo, Chief Executives Order and subsequent declaration on the matter, the referral received by the Commission on 31st March 2026 includes a cover letter along with various other appendices, including:

- Land Registry information in relation to Folio 17554F
- Documentation relating to PA ref. 20/383
- Documentation relating to PA ref. 20/181, including NIS and DAU submission
- SEA and other reports relating to Draft Variation No. 1 of the 2011-2017 CDP
- NPWS Conservation Objectives supporting document for Sligo Bay SAC
- DAU submission on SEA screening for Draft Variation No. 1 of the 2024-2030 CDP
- AA Stage 1 Screening Report relating to Strandhill WWTP upgrades etc.
- Minutes of various Sligo County Council ('the Council') meetings.

3.4. The referral also includes various other correspondence between the referrer and the Council along with a document entitled 'Planning Enforcement – Signal Infrastructure Ltd., Killaspugbrone PL 20383' which appears to relate to emails from May 2024.

4.0 Planning Authority Declaration

4.1. Declaration

4.1.1. The Section 5 declaration by Chief Executive Order on 11th March 2026 states:

"Pursuant to Section 5 of the Planning & Development Act 2000, Sligo County Council hereby decides that the works as submitted namely; 1. Unlicensed Felling of Mature Trees (Approx. 30 Cubic Metres), 2. Subsequent Topping and Reduction of Remaining Trees located at Killaspugbrone, Strandhill, Co. Sligo as shown on the documents

submitted to the Planning Authority on 13/02/2026 do not constitute development and that 3. Non-Compliance with Planning Condition – Underground Cabling is compliant with permission granted under PL20/383.

The other issues raised (Nos. 4, 5, 6, 7) were assessed in the permission granted on site under PL20/383.

4.2. Planning Authority Reports

4.2.1. The Planning Officer's Memo (09/03/26) can be summarised as follows:

- Notes that Section 5 is not the appropriate procedure to address some of the issues raised in the request.
- States that the felling of trees does not constitute development as per Section 2.
- States that topping etc. of trees does not constitute development as per Section 2.
- Notes that the overhead electricity pole and wires were in place prior to a grant of permission under PA ref. 20/383 thus considers the development to be in accordance with the permission.
- States that the potential impact on the landscape was assessed under PA ref. 20/383, nonetheless, a Section 5 is not the correct procedure to address this issue.
- State that the development is not located with the constraint area for SMR ref. SL013-003---- and thus it is not considered to have an adverse impact on the archaeological heritage of the area; Section 5 is not the correct procedure.
- Refers to Section 10 of the Planner's Report under PA ref. 20/383 which screened out the need for AA, nonetheless, a Section 5 is not the correct procedure etc.
- Refers to Section 12 of the Planner's Report under PA ref. 20/383 in relation to telecoms siting principles; Section 5 is not the correct procedure, nonetheless.

5.0 Planning History

5.1. Referral Site

5.1.1. PA ref. 03/398 – in February 2004, the decision of the planning authority was overturned on appeal (ref. PL 21.204477) and permission granted for an 18-metre telecoms tower, access track and ancillary cabins/palisade fence for a 5-year period.

- 5.1.2. PA ref. 08/641 – in November 2008, planning permission was granted to attach 3 no. 2.8 metre antenna to an existing 18-metre lattice tower together with associated equipment etc. and bringing the existing lattice tower to a height of 21.3 metres etc.
- 5.1.3. PA ref. 09/166 – in June 2009, planning permission was granted for retention of the 21.3 metres telecoms tower, access track and ancillary cabins/palisade fence for a further 5-year period. Condition 4 prohibited any further antennae being erected etc.
- 5.1.4. PA ref. 14/330 – in December 2014, planning permission was granted for retention of the 21.3 metres telecoms tower, access track and ancillary cabins/palisade fence etc.
- 5.1.5. PA ref. 20/383 – in February 2021, planning permission was granted for a 6-metre extension to the existing lattice telecoms support structure. Condition 3 required the undergrounding of electricity lines and Condition 4 required site entrance upgrades.

5.2. Noted by Referrer

- 5.2.1. PA ref. 20/181 – in May 2021, planning permission was granted for a two-storey office building with access from the business park road, signage and parking etc. Condition 4 required the submission of a Conservation Management and Monitoring Plan for approval prior to commencement of development. Condition 5 required compliance with all mitigation measures in the NIS and works in accordance with the CEMP etc.

6.0 Policy Context

6.1. Sligo County Development Plan 2024-2030

- 6.1.1. The current Development Plan came into effect on 11th November 2024. The Plan was subject to a draft Ministerial Direction in July 2024 and is pending a final decision by the Minister following public consultation and OPR recommendations (Oct. 2024). The planning authority declaration was made under the provisions of this current Plan.
- 6.1.2. The referral site is within the development limit of Strandhill and zoned 'TOU – tourism'. Section 10.5.3 of the Plan sets out the zoning objective for 'TOU – tourism'. It seeks to retain, enhance and support the development of tourism-related facilities etc.
- 6.1.3. The Sligo coastline is designated as a Visually Vulnerable Area in the Plan and the Scenic Route designation lies to the west (R277). The site is otherwise within a Normal Rural Landscape and there are no designated views or prospects of special amenity.

6.2. Natural Heritage Designations

- Cummeen Strand/Drumcliff Bay (Sligo Bay) pNHA (000627) – 80m west
- Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC (000627) – 80m west
- Cummeen Strand SPA (004035) – 0.6km northeast

7.0 The Referral

7.1. Referrer's Case

7.1.1. The referrer's case can be summarised as follows:

Introduction

- Appeal lodged against Section 5 declaration regarding the unlicensed felling of 30cu.m of mature trees and subsequent works at Killaspugbrone.
- Planning Authority erred in law by determining that these works do not constitute development and by failing to account for environmental protections.

Legal Error: Misinterpretation of "Development"

- Works under Section 2 includes any "act or operation of construction, excavation...or alteration" and the removal of trees is an alteration of the land.
- Refers to [2024] IESC 34¹ and related cases legal precedent, stating that specific exemptions are vitiated if the works require AA or EIA.

Violation of the Habitats Directive & CJEU Case Law

- Notes the nearby SAC which hosts the Whorl Snail and refers to the "Sweetman Principle" (C-258/11) and a report by Dr. Evelyn Moorkens contained within an AA Stage 1 Screening Report relating to Strandhill WWTP upgrades etc.
- States that the planning authority's reliance on the AA screening under PA ref. 20/383 is a "lacuna" in assessment as per [2014] IEHC 400² i.e., decision must be based on "best scientific knowledge" at the time etc.

¹ John Conway v An Bord Pleanála

² Kelly v An Bord Pleanála

Impact on National Monuments

- Works are within 80 metres of a recorded monument and the felling has left the mast as a “sore thumb”, damaging the monuments visual and historical setting.

Landscape Protection & De-Exemption

- States that the combination of felling and the existing mast create an unassessed visual impact and ‘violates Plan policies P-LCAP-1 to 3’.
- Refers to the de-exemption under Section 4(4) if AA or EIA is required.
- States that development is not exempt if it fails to comply with a planning condition:
 - Alleges breach of condition in respect of underground cabling (Condition 3), stating that the developer installed overhead cabling and lighting and refers to Article 9(1)(a)(i) of the Regulations in this regard.
 - Alleges breach of condition in respect of path upgrades (Condition 4) and suggests that this has hydrological implications for the Whorl Snail habitat.
 - Submits that the introduction of artificial lighting in a visually vulnerable area adjacent to a SAC is a material change and states that the planning authority failed to assess the “in-combination” effects of tree removal and lighting.

Fundamental Errors

- States that there is documented evidence of significant badger activity in the area and the felling and lighting directly impact on breeding sites and resting places.
- States that the planning authority cannot grant an exemption where the risk of significant effect on protected species has not been scientifically ruled out.
- Submits that the destruction of habitat for a protected species without a site-specific ecological assessment vitiates any claim to exempted development status.
- The Council have breached a duty of care by relying on an outdated AA screening.

Conclusion

- Developer has demonstrated a pattern of non-compliance with restrictive conditions and thus lost the protection of exempted development status.
- Cumulative impact of unlicensed felling, unassessed lighting and altered hydrology breaches the precautionary principle under the Habitats Directive.

7.2. Planning Authority Response

7.2.1. No response was received from the planning authority.

7.3. Owner / Occupier's Response

7.3.1. No response was received from the owner / occupier's, Signal Infrastructure Limited.

8.0 Statutory Provisions

8.1. Overview

8.1.1. Relevant provisions:

- Planning and Development Act 2000, as amended ('the Act'), and
- Planning and Development Regulations 2001, as amended ('the Regulations').

8.2. Planning and Development Act

Section 2

8.2.1. Section 2(1) provides the following interpretations which are relevant:

"alteration" includes—

- (a) plastering or painting or the removal of plaster or stucco, or
- (b) the replacement of a door, window or roof,

that materially alters the external appearance of a structure so as to render the appearance inconsistent with the character of the structure or neighbouring structures;

"development" has the meaning assigned to it by section 3, and "develop" shall be construed accordingly;

"exempted development" has the meaning specified in section 4;

"structure" means *inter alia* any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined, and where the context so admits, includes the land on, in or under which the structure is situate etc.; and

“unauthorised development” means, in relation to land, the carrying out of any unauthorised works (including the construction, erection or making of any unauthorised structure) or the making of any unauthorised use;

“unauthorised structure” means a structure other than—

- (a) a structure which was in existence on 1 October 1964, or
- (b) a structure, the construction, erection or making of which was the subject of a permission for development granted etc., or which exists as a result of the carrying out of exempted development etc.;

“unauthorised works” means any works on, in, over or under land commenced on or after 1 October 1964, being development other than—

- (a) exempted development etc., or
- (b) development which is the subject of a permission granted etc., and which is carried out in compliance with that permission or any condition to which that permission is subject;

“works” includes any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal etc.

Section 3

- 8.2.2. Except where otherwise required, Section 3(1)(a) defines “development” as:

The carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land.

Section 4

- 8.2.3. Section 4(1) provides a list of statutory exemptions, including:

(h) development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures; and

(i) development consisting of the thinning, felling or replanting of trees, forests or woodlands or works ancillary to that development, but not including the replacement of broadleaf high forest by conifer species.

- 8.2.4. Section 4(4) provides development shall not be exempted development if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required.

Section 5

- 8.2.5. Section 5(1) provides that if any question arises as to what, in any particular case, is or is not development or is or is not exempted development, any person may request in writing from the relevant planning authority a declaration on that question. Section 5(3)(a) provides for a review by referral within 4 weeks of the date of the declaration.

Section 138

- 8.2.6. Section 138 provides an absolute discretion to dismiss a referral where it is of the opinion that the referral is vexatious, frivolous or without substance etc.

Section 177U

- 8.2.7. Section 177U(9) provides that in deciding a referral under Section 5, a screening for AA shall be conducted in accordance with the provisions Section 177U of the Act.

8.3. Planning and Development Regulations

Article 6

- 8.3.1. Subject to the restrictions in Article 9, Article 6(1) provides for the classes of exempted development under column 1 of Parts 1, 2 and 3 of Sch. 2, subject, where applicable, to the conditions and limitations opposite such classes as set out in column 2.
- 8.3.2. Schedule 2, Part 3, Class 16 is generally noted in respect of forestry:

<i>Column 1</i>	<i>Column 2</i>
<i>Replacement of broadleaf high forest by conifer species.</i>	<i>The area involved shall be less than 10 hectares.</i>

Article 8

- 8.3.3. Article 8F states that development (other than the replacement of broadleaf high forest by conifer species) that is licensed / approved under Section 6 of the Forestry Act 2014 (No. 31 of 2014) and that consists of – (a) the thinning, felling or replanting of trees, forests or woodlands, or (b) works ancillary thereto, shall be exempted development.

Article 9

8.3.4. Article 9 imposes specific restrictions on development of classes specified in Parts 1, 2 and 3 of Schedule 2 and in effect de-exempts certain classes of development that would be exempt under normal circumstances. The restrictions under Article 9(1)(a) apply if the carrying out of such development would *inter alia*:

(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,

(iiia) endanger public safety by reason of hazardous glint and/or glare for the operation of airports, aerodromes or aircraft,

(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,

(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,

(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,

(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site.

8.4. Precedent Referral Cases

Felling, Forestry Works etc.

- 8.4.1. Under case ref. ABP-310085-21, it was considered whether *inter alia* the selective felling and clearing of trees at Glenpipe, Tullogher, Co. Kilkenny was / was not development and was / was not exempted development. It was concluded that the felling and clearance of trees and the widening and improvement of existing forestry tracks came within the scope of development and was exempted development etc.
- 8.4.2. Under case ref. ABP-310098-21, it was considered whether *inter alia* the felling of trees and a tarmac surface at Leixlip Demesne, Co. Dublin was / was not development and was / was not exempted development. It was concluded that the laying of the tarmac fell within the scope of Section 4(1)(h) of the Act, constituting the maintenance, improvement or alteration of an existing structure (i.e., the existing driveway surfaced area) and the thinning and felling of trees fell within the scope of Section 4(1)(i) of the Act. It was specifically noted that any relevant provisions of the Forestry Act 2014, as amended, relating to tree felling licencing requirements and the definition of 'exempted trees' within the meaning of that Act, fall outside the scope of the Section 5 process.
- 8.4.3. Under case ref. RL3466, it was considered whether *inter alia* the removal, clearance and mulching of woodland within Headfort Demesne ACA, Kells, Co. Meath and within The River Boyne and River Blackwater SAC (and affecting the SPA) was / was not development or was / was not exempted development. It was concluded that the removal, clearance and mulching of woodland involved works and was therefore development that would generally come within the scope of Section 4(1)(i) of the Act being development consisting of the thinning or felling of trees or works ancillary to that development, however, having regard to the close proximity of the subject site to the SAC and SPA, and the potential for effects on these European sites as a result of the development, including indirect effects resulting from potential runoff from the works into the European sites, it was considered that it could not be established, beyond reasonable scientific doubt, that the development in question would not have significant effects on those sites, and therefore an AA was considered to be required. Pursuant to Section 4(4) of the Act, the development was not exempted development. I also note the question raised in relation to a nature reserve was not considered to be a valid question and thus deemed to be outside the scope of the Section 5 process.

8.5. Precedent Legal Judgements

Enforcement and Exempted Development

- 8.5.1. In *O'Connor v Kerry County Council* [1988] ILRM 660, Costello J. held that “if a person on whom the enforcement notice is served objects to the notice on the ground that the development is exempted development, it seems to me that he has a remedy in that he may apply to the planning board to determine the question. When matters of a technical nature are involved, as arises here, it is not appropriate that the court should be asked to determine whether or not the development that is in issue is exempted or not.” This was not in the Courts view the proper function for an application for *certiorari*.

Reformulation of Referral Question

- 8.5.2. In *Roadstone Provinces Ltd v An Bord Pleanála* [2008] IEHC 210, the High Court considered that the Board is entitled to reformulate questions posed where necessary. In this instance, Finlay Geoghegan J. noted at para. 31 that the Planning Inspector was critical of the content of the referral, having regard to Section 127 of the Act, and that the Inspector summarised the questions which she considered she could extract.

Improvement of a structure etc.

- 8.5.3. In *Michael Cronin (Readymix) Ltd v An Bord Pleanála and Others* [2017] IESC 36, [2017] 2 I.R. 658, the Supreme Court considered whether an extension to a structure (a concrete yard within a quarry) constituted exempted development. The court agreed with the Board’s submission that the exemption under Section 4(1)(h) of the Act applies to a limited category of works that amount to alterations (with the concepts of maintenance and improvement being subsets), which are either wholly internal or, if external, are insignificant. An “improvement”, for the purposes of an exemption, must be something that relates to the internal use and function of the structure, resulting in either no externally noticeable difference or an insignificant difference.

9.0 Assessment

9.1. Preliminary Points

Referrer’s Case

- 9.1.1. It should be noted at the outset, that the purpose of the referral is for the Commission to conclude upon whether or not the matters in question constitute development, and

if so, fall within the scope of exempted development. Thus, the issues raised in relation to telecoms siting principles and indeed any inferred concerns regarding the assessment by the planning authority of PA ref. 20/383 or any other application relating to the telecoms compound are outside the Commission's remit under Section 5 procedures, and the appeal periods under Section 37 are now expired in any event.

9.1.2. Likewise, the enforcement of planning control falls outside the remit of the Commission. In this regard, I note that the Planner's Memo suggests that Section 5 is not the appropriate procedure to address some of the issues raised in the request, including that in relation to the aforementioned telecoms siting principles but also in respect of landscape and archaeological impacts. This is generally correct, unless, of course, a site-specific de-exemption is triggered, and this is considered further below.

9.1.3. Fundamentally, the Section 5 process must not be used to re-visit development that has been authorised by virtue of Section 34 of the Act or as a mechanism to establish if something is unauthorised. Curiously, it can, however, be used as a defence in enforcement proceedings as noted by Costello J. in *O'Connor v Kerry County Council*.

Planning Authority Declaration

9.1.4. Similar to the framing of the issues as considered in the Planner's Memo, the Council's declaration could be construed, in part, as a response to queries regarding alleged unauthorised development. It is important to reiterate that this is not a matter for the Commission or the correct application of the Section 5 referral process in my opinion.

The Question

9.1.5. The referral specifically relates to the unlicensed felling of 30cu.m of mature trees and subsequent works at Killaspugbrone. Having regard to the observations made during my site visit and to publicly available orthophotography of the referral site for the years 2009, 2014, 2020, 2021, 2023 and 2026, I intend to proceed with my assessment on the basis of the questions as submitted to the planning authority, albeit refined by the referrer in their submission to the Commission, and reformulated in light of relevant fact and law as per Finlay Geoghegan J. in *Roadstone Provinces Ltd v An Bord Pleanála*. Therefore, the question that I now propose to consider is:

Whether the unlicensed felling of trees and laying of hardcore / stone chippings adjacent to a telecoms compound in the townland of Killaspugbrone, Strandhill, County Sligo is or is not development or is or is not exempted development.

9.2. Is or Is Not Development

- 9.2.1. Publicly available orthophotography for the years 2009, 2014 and 2020 clearly show the adjacent conifer plantation enveloping the telecoms compound to the north and west. At some point between April 2020 and March 2021, it would appear that a quantum of trees immediately to the north and west of the compound were felled. It would also appear that between March 2021 and March 2023 some hardcore was laid.
- 9.2.2. Section 3 of the Act defines development as the carrying out of any works in, on, over or under land, or the making of any material change in the use of any land or structures situated on land. According to Section 2, “works” include any act or operation of construction, excavation, demolition, extension, alteration, repair or renewal etc.
- 9.2.3. Whilst felling is not listed as one of the activities under the definition of works, it is expressly stated as development under Section 4(1)(i) of the Act i.e., development consisting of the thinning, felling or replanting of trees, forests or woodlands etc.
- 9.2.4. The laying of hardcore / stone chippings immediately north of the compound evidently falls within the definition of works and is therefore development under Section 3.

Conclusion on Development

- 9.2.5. The felling of trees and laying of hardcore adjacent to a telecoms compound in the townland of Killaspugbrone, Strandhill, Sligo constitutes works and is development.

9.3. Is or Is Not Exempted Development

- 9.3.1. For the same reason that the felling of trees is classified as development, it must be considered as exempted development i.e., Section 4(1)(i). This reflects the approach adopted regarding the selective felling and clearing of trees at Glenpipe, Tullogher, Co. Kilkenny under case reference ABP-310085-21. Whilst I note that the felling of trees that is licensed or approved under Section 6 of the Forestry Act 2014, as amended, is also exempted development under Article 8F of the Planning Regulations, it does not impact on the statutory exemption provided for under Section 4(1)(i) of the Act as previously considered in the Leixlip Demesne case under ABP-310098-21.
- 9.3.2. The unlicensed felling of trees must therefore be considered as exempted development but I do not consider that the laying of hardcore is ancillary works thereto.

- 9.3.3. Having regard to the orthophotography for the years 2009 and 2014 it would appear that the area immediately north of the telecoms compound was hardstanding. This is less clear in the images from 2020 and 2021. The area in question is, however, clearly shown on the site layout drawing under PA ref. 03/398 and subsequently considered at appeal under case ref. PL 21.204477. That drawings shows the area in question within a dashed line and annotated as “access track (hardcore / chippings)”. Condition 3 of the appeal decision required ‘details of the construction of the new stretch of access road to be submitted and agreed prior to commencement of development’. I note from compliance submission and subsequent planning authority response dated 28th June 2004 that the track from the existing road to the compound, consisting of compacted broken stone dressed in 100mm of stone chips was deemed acceptable.
- 9.3.4. I am therefore satisfied that the laying of hardcore / stone chippings (at some point between April 2020 and March 2021), which was an act or operation of repair or renewal to a previously authorised hardstanding, was evidently carried out for the maintenance of that structure, as so defined, and thus exempted development under Section 4(1)(h) of the Act. This reflects the approach adopted regarding the laying of tarmac at Leixlip Demesne under case reference ABP-310098-21 and I am satisfied that the maintenance of a structure is distinguishable here from the ‘improvement of a structure’ as considered by the Supreme Court in *Michael Cronin v An Bord Pleanála*.

Conclusion on Exempted Development

- 9.3.5. The felling of trees and laying of hardcore adjacent to a telecoms compound in the townland of Killaspugbrone, Strandhill, Sligo constitutes exempted development.

9.4. Restrictions on Exempted Development

- 9.4.1. As noted, in certain cases, development normally deemed exempted development may be de-exempted by virtue of Section 4(4) of the Act or Article 9 of the Regulations.

Section 4(4)

- 9.4.2. Development shall not be exempted development if an Environmental Impact Assessment (EIA) or an Appropriate Assessment (AA) of the development is required.
- 9.4.3. The referrer notes this in their submission and refers to the nearby SAC (Sligo Bay) and various reports and documents in relation to other developments, plans and projects in the area. They also submit that the planning authority’s reliance on the AA

screening under PA ref. 20/383 is a “lacuna” in the overall assessment and suggest that it must be based on “best scientific knowledge” at the time of the decision etc.

- 9.4.4. I have reviewed the submitted documentation and whilst I acknowledge the legal principle of best scientific knowledge in the context of AA, the referrer has not adequately demonstrated how the felling of trees and laying of hardcore in this specific case would, or indeed did, have a likely significant effect on the integrity of any European site, including the nearby Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC.
- 9.4.5. In specific terms, the submission refers to a report by Dr. Evelyn Moorkens and states that it confirms the dependence of the Narrow-Mouthed Whorl Snail, one of the qualifying interests (QIs) of the SAC, on the specific hydrology of the pine plantation.
- 9.4.6. The referenced report is dated August 2013 and is included as Appendix VII of an AA Stage 1 Screening Report prepared by Nicholas O’Dwyer (September 2013) in respect of proposed upgrades to Strandhill WWTP and Strandhill Caravan Park pumping station. Nowhere within Dr. Moorkens report does it state that *Vertigo angustior* is dependent on the specific hydrology of the pine plantation. In fact, the pine plantation is not mentioned in the report and the areas with *Vertigo angustior* habitat, as identified in Figure 1 of the report, are in excess of 500 metres from the referral site at it’s closest point. The report goes on to state that this area remains of the highest optimum quality given the hydrogeological regime and this is quite the opposite to the favoured conditions of a conifer plantation. Indeed, the area identified for *Vertigo angustior* in the SAC’s conservation objectives series (Map 7) is mainly to the west of the R277.
- 9.4.7. The onus of proof as to an inadequacy in the decision cannot be discharged by mere assertion³ and in this regard the “lacuna” here lies squarely at the feet of the referrer. To my mind, the felling of trees and laying of hardcore, in the absence of any excavations could have no possible impact on the hydrogeological regime of the fixed dunes and dune slack 500 metres away. Section 4(4) does not apply in this case.

Article 9

- 9.4.8. De-exemptions under Article 9 can be triggered if the development contravenes a condition attached to a permission; interferes with the character of a landscape; impacts on a place of archaeological, ecological interest, or on a recorded monument, or requires AA as it would likely have a significant effect on a European site etc.

³ See para. 48 (v) of *Sheila Hootor & Others v An Coimisiún Pleanála* [2026] IEHC 65

9.4.9. In this regard, I note the referrers submission regarding the alleged breach of Conditions 3 and 4 of PA ref. 20/383 in the context of Article 9(1)(a)(i) as well as concerns regarding impact on badgers, landscape and archaeology. All of the restrictions under Article 9, however, relate to exemptions under Article 6 of the Regulations as opposed to the statutory exemptions under Section 4(1) of the Act.

9.4.10. In such circumstances, I do not consider the referenced de-exemptions apply here.

Conclusion on Restrictions on Exempted Development

9.4.11. I do not consider any of the restrictions under Article 9 of the Regulations apply to statutory exemptions under Section 4(1)(h) or (i) of the Act. The requirement for AA is further considered below in the context of de-exemption under Section 4(4) of the Act.

10.0 AA Screening

Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive) as required by Section 177U(9)

I have considered case ACP-324177-26 in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended.

The referral site is located to the northern periphery of Strandhill and within a peri-urban environment to the south of Sligo Airport and Enterprise Centre and to the east of the R277. It comprises a telecoms compound and surrounding area.

The closest European sites, part of the Natura 2000 Network, are Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC (site code 000627) and Cummeen Strand SPA (site code 004035) located c. 80 metres west and 600 metres northeast of the referral site respectively.

Having considered the nature, scale and location of the development, I am satisfied that it can be eliminated from further assessment because it did not / could not have any effect on a European site.

The reason for this conclusion is as follows:

- Small scale nature of the development;
- Low potential for source impacts of any magnitude, and

- The distance from European sites, nature of intervening habitats and absence of ecological pathways to any European site.

I conclude, on the basis of objective information, that the development did not / would not have a likely significant effect on any European site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

11.0 Recommendation

11.1. I recommend that the Commission decide this referral in accordance with the following Draft Order.

WHEREAS a question has arisen as to whether the unlicensed felling of trees and laying of hardcore / stone chippings adjacent to a telecoms compound in the townland of Killaspugbrone, Strandhill, County Sligo is or is not development or is or is not exempted development:

AND WHEREAS Áine Nic Amhlaidh requested a declaration on a broadly similar question from Sligo County Council and the Council issued a declaration on the 11th day of March, 2026 stating that the unlicensed felling of mature trees (approx. 30 cubic metres) was not development and did not make a declaration in respect of the laying of hardcore / stone chippings:

AND WHEREAS Áine Nic Amhlaidh referred this declaration, as refined, for review to An Coimisiún Pleanála on the 31st day of March, 2026:

AND WHEREAS An Coimisiún Pleanála, in considering this referral, had regard particularly to –

- (a) the nature, scale, extent and scope of the works,
- (b) the existing and past site context,
- (c) Sections 2, 3, 4, 5 and 177U of the Planning and Development Act, 2000, as amended,
- (d) Articles 6, 8 and 9 of the Planning and Development Regulations, 2001, as amended,
- (e) the planning history of the referral site and the decision under appeal ref. PL 21.204477 (PA ref. 03/0398) in particular,
- (f) relevant precedent referrals and judgements,
- (g) the pattern of development in the area, and
- (h) the provisions of the Sligo County Development Plan 2024-2030 as they apply to the referral site:

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) The unlicensed felling of trees is “development” under Section 3(1) of the Planning and Development Act, 2000, as amended;
- (b) The laying of hardcore / stone chippings constituted “works” that is “development” under Section 3(1) of the Planning and Development Act, 2000, as amended;
- (c) The unlicensed felling of trees is exempted development under Section 4(1)(i) of the Planning and Development Act, 2000, as amended; and
- (d) The laying of hardcore / stone chippings insofar as it relates to the maintenance and renewal of a previously authorised structure (access track) is exempted development under Section 4(1)(h) of the Planning and Development Act, 2000, as amended.

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by Section 5 of the 2000 Act, as amended, hereby decides

that the unlicensed felling of trees and laying of hardcore / stone chippings adjacent to a telecoms compound in the townland of Killaspugbrone, Strandhill, County Sligo is development and is exempted development.

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.

Philip Maguire
Inspectorate
21st August 2026