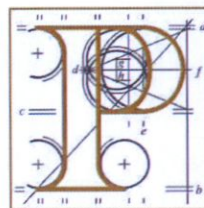


**Our Case Number:** ABP-317431-23

**Planning Authority Reference Number:** SD22A/0445



**An  
Bord  
Pleanála**

South Dublin County Council  
Planning Department  
County Hall  
Tallaght  
Dublin 24

**Land Use Planning & Transportation**

**28 JUN 2023**

**South Dublin County Council**

**Date:** 26 June 2023

**Re:** Erection of telecommunications support structure, associated ancillary works  
Esker House, Esker Road, Esker, Co. Dublin

Dear Sir / Madam,

Enclosed is a copy of an appeal under the Planning and Development Act, 2000, (as amended).

Submissions of documents etc., to the Board. N.B. Copies of I-plans are not adequate, all drawings and maps should be to scale in accordance with the provisions of the permission regulations.

1. The planning authority is required to forward specified documents to the Board under the provisions of section 128 and section 37(1)(b) of the Planning and Development Act, 2000, (as amended). Please forward, within a period of 2 weeks beginning on the date of this letter, the following documents:-

- (i) a copy of the planning application made to the planning authority and a copy of any drawings, maps (including ordnance survey number) particulars, evidence, a copy of any environmental impact statement, other written study or further information received or obtained by your authority in accordance with regulations under the Acts. If practicable, the original of any drawing with coloured markings should be provided or a coloured copy,
- (ii) a copy of any technical or other reports prepared by or for the planning authority in relation to the application,
- (iii) a certified copy of the relevant Manager's Order giving the decision of the planning authority,
- (iv) a copy of the notification of decision given to the applicant,
- (v) particulars of the applicant's interest in the land or structure, as supplied to the planning authority,
- (vi) a copy of the published notice and a copy of the text of the site notice erected on the land or structure.
- (vii) a copy of requests (if any) to the applicant for further information relating to the application under appeal together with copies of reply and documents (if any) submitted in response to such requests,

<b>Tel</b>	<b>Tel</b>	(01) 858 8100
<b>Glaos Áitiúil</b>	<b>LoCall</b>	1800 275 175
<b>Facs</b>	<b>Fax</b>	(01) 872 2684
<b>Láithreán Gréasáin</b>	<b>Website</b>	www.pleanala.ie
<b>Ríomhphost</b>	<b>Email</b>	bord@pleanala.ie

64 Sráid Maoilbhríde	64 Marlborough Street
Baile Átha Cliath 1	Dublin 1
D01 V902	D01 V902

(viii) a copy of any written submissions or observations concerning the proposed development made to the planning authority,

(ix) a copy of any notices to prescribed bodies/other authorities and any responses to same,

(x) a copy of any exemption application/certificate within Part V of the 2000 Act, (as amended), applies,

(xi) a copy of the minutes of any pre-planning meetings.

2. To ensure that the Board has a full and complete set of the material specified above and that it may proceed with full consideration of the appeal, please certify that the planning authority holds no further material relevant to the case coming within the above list of items by signing the certification on page 3 of this letter and returning the letter to the Board.

3. In addition to the documents mentioned above, please supply the following:-

Particulars and relevant documents relating to previous decisions affecting the same site or relating to applications for similar development in near proximity. "History" documents should include;

a) Certified Manager's Order,

b) the site location, site layout maps, all plans and

c) particulars and all internal reports.

Copies of I-plan sheets are not adequate.

Where your records show that a decision was appealed to the Board, it would be helpful if you would indicate the Board's reference.

Submissions or observations by the planning authority.

4. As a party to the appeal you may, under section 129 of the 2000 Act, (as amended), make submissions or observations in writing to the Board in relation to the appeal within a period of 4 weeks beginning on the date of this letter.

Any submissions or observations received by the Board outside of that period shall not be considered, and where none have been validly received, the Board may determine the appeal without further notice to you.

#### Contingency Submission

5. If the decision of your authority was to refuse permission, you should consider whether the authority wishes to make a contingency submission to the Board as regards appropriate conditions which, in its view, should be attached to a grant of permission should the Board decide to make such a grant. In particular, your authority may wish to comment on appropriate conditions which might be attached to a permission in accordance with section 48 and/or 49 of the 2000 Planning Act, (as amended), (Development / Supplementary Development Contributions) including any special condition which might be appropriate under section 48(2)(c) of the Act.

Any such contingency submission, in circumstances which your authority decided to refuse permission, would be without prejudice to your authority's main submission in support of its decision.

Please quote the above appeal reference number in any further correspondence. I hereby certify that the planning authority has complied with section 128 and section 37(1)(b) of the 2000 Act, (as amended),

**Teil** (01) 858 8100  
**Glaio Áitiúil** LoCall 1800 275 175  
**Facs** Fax (01) 872 2684  
**Láithreán Gréasáin** Website www.pleanala.ie  
**Ríomhphost** Email bord@pleanala.ie

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D01 V902 D01 V902

AN BORD PLEANÁLA  
LDG- 064493-23  
ABP-  
23 JUN 2023  
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Time: By: REG POST

**charterhouse**  
INFRASTRUCTURE CONSULTANTS

The Secretary  
An Bord Pleanála  
64 Marlborough Street  
Dublin 1

22nd June 2023

**Appeal Re:** Application for permission Erect a 24-metre-high lattice telecommunications support structure together with antennae, dishes, and associated telecommunications equipment, all enclosed in security fencing; The proposed development is located within the curtilage of a Protected Structure.

**Location:** at Esker House, Esker Road, Esker, Co. Dublin.  
**PA:** South Dublin County Council  
**Reg Ref:** SD22A/0445  
**Decision:** Refuse, dated 29/05/2023  
**Appellant:** Vantage Towers Limited. Mountain View, Leopardstown, Dublin 18.  
**Agent:** Charterhouse Infrastructure Consultants.  
HQ, 27 Market St, Listowel, Co Kerry, V31 DY72.  
**Fee:** €1,500 cheque enclosed

Please forward correspondence to the agent.  
We do not wish to request an oral hearing.

**1<sup>st</sup> PARTY APPEAL AGAINST DECISION TO REFUSE**

A Chara,

Charterhouse act as agent for Vantage Towers Ltd who wish to appeal the decision of South Dublin County Council to refuse permission for the above development at Esker House, Esker Road, Esker.

Permission was refused by South Dublin County Council for the proposed development for the reasons stated below:

HEAD OFFICE: HQ, 27 Market Street, Listowel, Co. Kerry, V31 Y436  
T: 068 57463 E: info@chtc.ie [www.chtc.ie](http://www.chtc.ie)

1

## **1 Reasons:**

1. It is considered that the proposed telecommunications infrastructure by reason of its height, design and siting would result in a visually dominant feature that would have a significant adverse impact on the character, setting, special interest of the Protected Structure (Esker House Ref. 101) and its curtilage and therefore would be contrary to NCBH19 Objectives 1 and 2 of the South Dublin County Development Plan 2022-2028 as well as the proper planning and sustainable development of the area.

2. It is considered that the revised siting of the proposed development, by virtue of the reduction in the separation distance to the Riparian Corridor and associated watercourse to the north of the subject site, would fail to protect the integrity of the riparian corridor. The proposed development would therefore be contrary to GI3 Objectives 2 and 3 and Section 12.4.3 of the South Dublin County Development Plan 2022-2028 and be contrary to the proper planning and sustainable development of the area.

## **2 Fee**

The fee enclosed with this appeal is €1,500.

## **3 Grounds for Appeal**

The grounds for this appeal are provided for under Section 37 (2) b (iii) of The Planning and Development Act 2000 as amended and are set out below.

- a. Section 37 (2) b (iii) – Permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, Guidelines under Section 28, policy directives under Section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister, or any Minister of the Government

## **4 Response**

It is acknowledged that the proposed mast is located within the grounds of Esker Lucan house and outbuildings, both protected structures. However, it is considered that the proposal would not have a significant adverse impact on its character, setting or special interest. As a result, the proposal would not be contrary to NCBH19 Objectives 1 and 2 of the South Dublin County Development Plan 2022-2028.

Further, it is acknowledged that the proposed site is within the boundary line of the riparian corridor and associated watercourse. However, it is disputed that the proposal would fail to protect the integrity of the riparian corridor. As a result, the proposal would not be contrary to GI3 Objectives 2 and 3 and Section 12.4.3 of the South Dublin County Development Plan 2022-2028.

The proposed site is strategically located to ensure coverage within a weak area of Dublin. The provision of such coverage is a national priority with telecommunications being designated an essential service by Government on 28th March 2020. Modern technology is recognised as essential for the local and wider economy. To secure a site, it therefore needs to meet both technological and planning criteria, the result often being a mixed balance between the two. For this application a number of reports and assessments were undertaken, these include a Visual Impact Assessment, a Flood Risk analysis, an Arboricultural Impact Assessment and underground services report. It is submitted that the recommendations of these reports have been taken into consideration with a minor amendment to the location of the proposed structure. It is submitted that the final conclusion is that the proposed site pinpointed the fine balance between the wide range of planning and technological considerations required for a site at this location.

#### 4.1 The Proposed Development

#### 4.2 Site Location

The site is located amongst established trees within the private grounds of Esker House and outbuildings in Lucan Village c. 80 m south of the N4 road, c. 11 km west of Dublin City centre and c. 5.70 km southwest of Blanchardstown town centre.

Entrance to the House and grounds is gained via Esker Road then along a tarmac driveway which reaches just beyond the buildings. Past this is an overflow parking area with a track to the proposed site. The distance from the entrance to the site is approximately 210 metres. The river Griffeen runs along the ownership boundary and almost parallel with the access road which is in a northwest direction from the entrance to the site. The river comprises a very narrow stream with a steep riverbank of about 3.2 metres.

**Note that this location is proximate to the "Griffeen River" The river bank is steep with a drop of approx. 3.2 m to the water level.**



*Figure 1; Photographs of the river taken at the time of site assessment in June 2022.*

The grounds of Esker house benefit from a mature vegetation around its boundaries creating a relatively private enclosure. The trees include tall mature Ash and Horse Chestnut which measure at +16 to +19m AGL to crown. There is also a single poplar which also measures 24m AGL to its top.

Adjoining the application site to the north, northwest and east are green open spaces with existing mature vegetation.

There are housing developments located beyond the open spaces and to the southwest of the estate as shown on the Google earth map below.

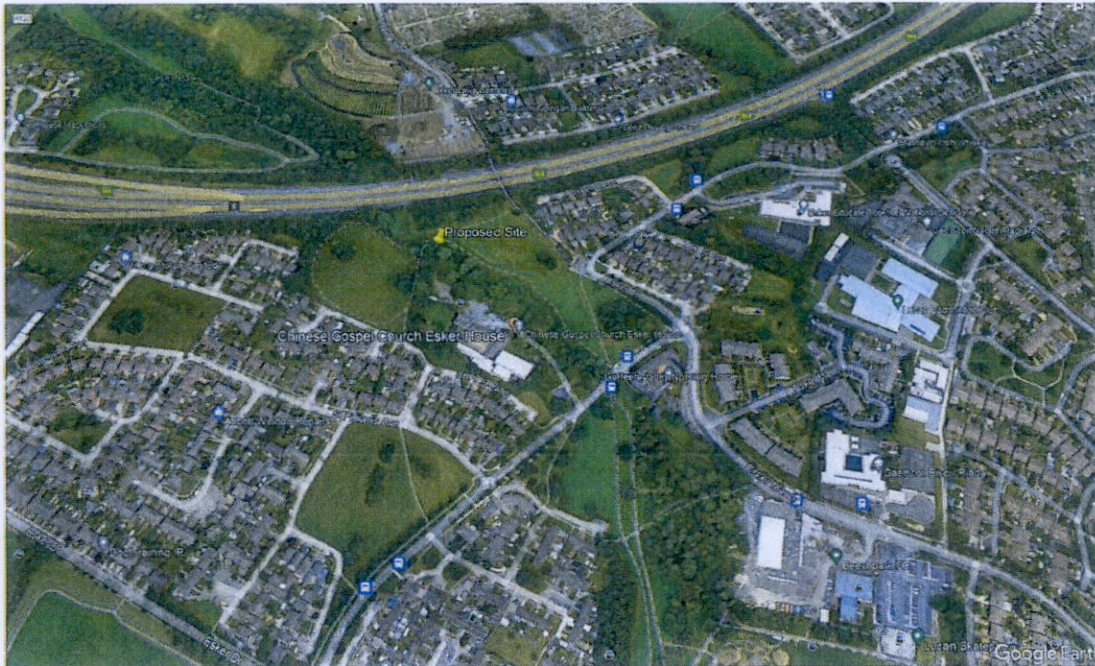


Figure 2; Google Earth view of the proposed site, Esker house grounds and surrounding environ.

The closest dwelling house is located c. 100 m southwest of the application site within St Finian's Crescent. Between the estates and the site are lines of mature trees offering ample screening. There are also rows of trees along the N4 to the north of the proposed site.

#### 4.3 Proposed Development

The proposed development comprises a 24 m high multiuser lattice tower with associated equipment. The proposed structure will enable Vodafone to improve services within Lucan and introduce reliable 4G & 5G technology to the village, N4 and surrounding areas. The catchment area is weak in 4G and 5G coverage and the structure is available for other operators.

#### 4.4 Justification for new structure

This area is a known for its weak coverage.

##### 4.4.1 Outdoor v Indoor coverage

ComReg released a public viewer enabling the public to view nationwide coverage for the Ireland's operators. Although ComReg provide excellent coverage map information, these maps are based on outdoor coverage levels. Indoor levels will be smaller by comparison and will vary with location and topography. The quality of signal is often referred to as capacity and there are many factors that can reduce or cause poor capacity, indoor / in-car coverage. The Commission for Communications Regulation (ComReg), in its Radio Spectrum Management Strategy Statement for 2017 to 2018, outlined a number of issues it believed may be currently affecting mobile user experience. These issues include:

- The increased use of phones with poorer antenna performance;
- Changing consumer habits (such as an increased use of data and a greater reliance on smartphones), leading to increased coverage and reliability expectations;
- The use of better building insulation materials (e.g., window insulation/tinting, foil-backed insulation) leading to a reduction in already poor indoor signal penetration; and
- The ability of Mobile Network Operators (MNOs) to find suitable cell sites or obtain planning permission.

As stated above, one of these could be the building materials that are used in construction. As homes are becoming better insulated to keep heat in, they may also reduce the strength of mobile phone signals. For modern services it is therefore even more important to be close to the source of demand. With a combination of new build and retrofit insulation for these homes, there is a greater difference between outdoor and indoor coverage areas.

5G services is more sensitive to the impact of obstacles and as a result the difference between outdoor and indoor coverage can vary greatly compared to the earlier generation services.

#### 4.4.2 ComReg outdoor mobile coverage map

ComReg coverage maps are included below showing Vodafone’s current local 4G and 5G coverage. In addition, ComReg coverage maps have been included for the other operators highlighting the weak coverage for this area.

The darkest colours demonstrate best outdoor coverage levels, the lighter colours demonstrate poorest outdoor coverage levels.



Figure 3: Current Vodafone 4G coverage. Esker House is identified by the red marker.

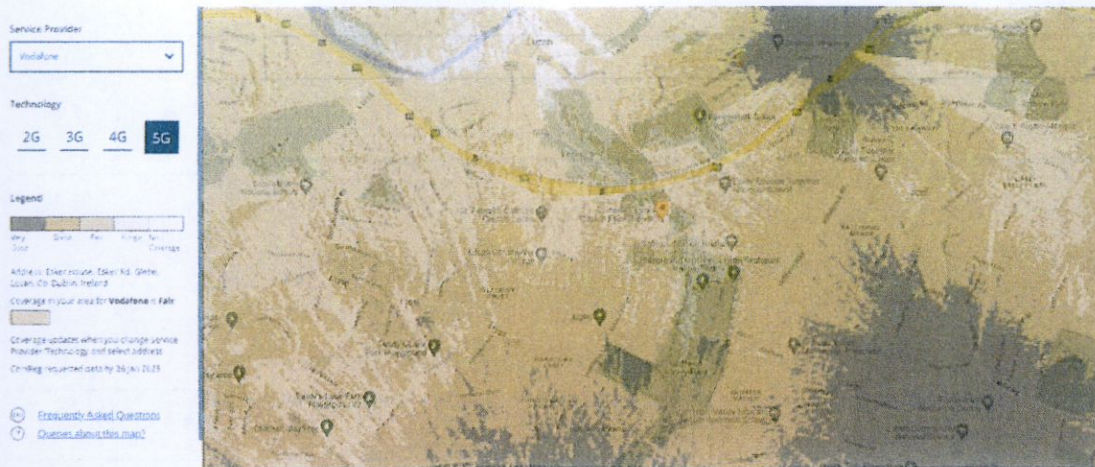


Figure 4; Current Vodafone 5G coverage. Esker House is identified by the red marker.

As can be seen from the coverage maps there is a weakness in both 4G and 5G coverage which must be corrected. The estates to the east of the proposed site particularly suffer from poor 4G coverage while modern services of 5G is weak for the entire area.

Other operators ComReg coverage maps show similar weaknesses in this area as shown below. The maps are all the same scale, and the red marker identifies Esker House.



Figure 5; ComReg map showing Three Ireland 4G coverage.





Figure 6: ComReg map showing Three Ireland 5G coverage.



Figure 7: ComReg map showing Eir 4G coverage.

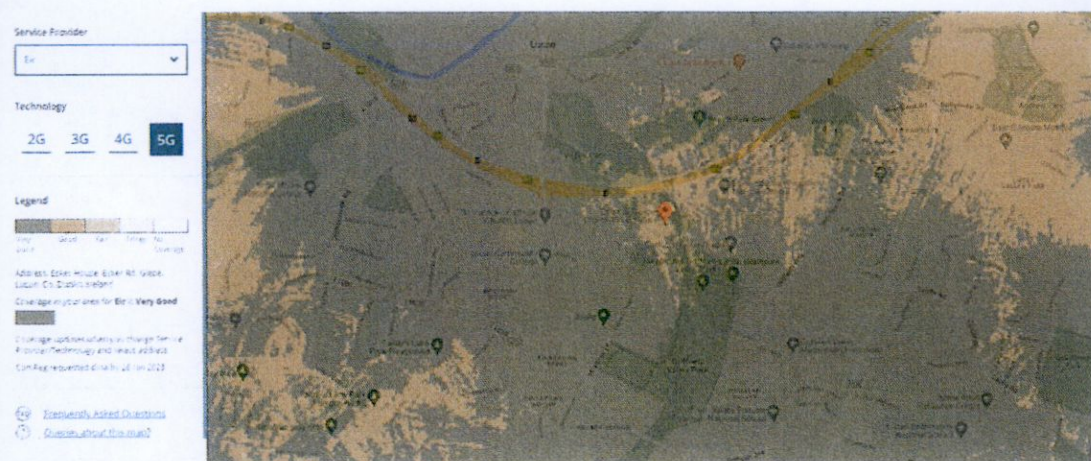


Figure 8: ComReg map showing Eir 5G coverage

As can be seen from the ComReg coverage maps both Three Ireland and Eir have weaknesses in coverage within the Esker House area, N4 and environs.

#### 4.5 Discounted Structures

ComReg also operates 'site viewer', a geo-website, which identifies existing communication sites. Although the application letter addressed this aspect of the proposal in detail, the ComReg map below shows the full extent of telecommunications structures situated in the wider area of Dublin. As seen, there are a number of installations. These reflect the dense nature of the City and high demand for services. When considering the site locations with the darker coverage areas from the maps above a good indications of the limits of each site can be appreciated. This is discussed further below.



Figure 9: ComReg site viewer map showing the various sites by blue circle drops within the wider area. Esker Lucan House is in the centre of the map identified by the small blue square shape. (The green circle drops represent ComReg reports for the installations).

As seen the three operators' installations are usually located in similar locations and often on the same rooftop and or mast. Each installation provides coverage for a given area and must be able to communicate into the network via dish from line of sight or via optical fibre, or both. A hierarchy exists within the network and therefore some sites must link into numerous other sites to ensure quality service voice and data transfers. This is discussed further below.

#### 4.6 Importance of Telecommunication Coverage for the Local and National Economy.

##### 4.6.1 Operators

Today there are three mobile network telecommunications providers in Ireland, eir Mobile, Vodafone Ireland and Three Ireland. Effectively riding on the back of these networks are MNVOs (Mobile Network Virtual Operators), including: 48, GoMo, Lycamobile, An Post Mobile, Tesco Mobile, Virgin Mobile, and Clear Mobile. The communications market has, and is, and will continue to change and grow at a rapid and exponential rate for the foreseeable future to bring new services for business, society in general and for the tourism sector. The demands for these services will impact the economic growth of an area.

#### **4.6.2 Technology**

Technology has grown from 2G through 3G, 4G and today the rollout is for both enhanced 4G services and modern 5G services. 2G propagation provides a relatively wide coverage area however with each new technology the coverage area has reduced. As the demand for 5G services increases the coverage area will reduce. Following the gradual take-up of 5G services, demand is expected to grow at an exponential rate as old mobiles and associated equipment are replaced. There is also an expected jump in demand for 4G and 5G services with the closure of 3G services. Also, the greater the demand for a site the smaller the actual coverage becomes resulting in a need for some coverage overlap. This overlap is complicated making site location for new sites very difficult. The closer to the source of demand the better, but this must be tailored with existing site coverage, gaps, and overlaps. On top of that, there is improving technology, and rightly so, planning constraints. A fine balance exists between this new technology, its importance to the local and wider economy with recognition of the planning constraints which must be achieved. This proposal aims to achieve this balance. Failure to secure the proposed development will result in loss of services for the future economy of the area.

#### **4.6.3 Infrastructure requirement**

The investment required to provide a structure is substantial and is not entered into lightly. The network operators are obliged to meet certain license requirements and therefore must provide services in areas identified as structurally weak and in need of modernisation. As mentioned above and as An Bord Pleanála is aware, through local and national policy the provision of such services are vital for the economy. Telecoms are now regarded as critical infrastructure and utility.

#### **4.6.4 Market changes**

In some European countries the earlier 2G and 3G networks are being closed down. The UK Government has agreed with its network operators to phase out 2G and 3G mobile services by 2033 with changes in planning rules to ensure 5G services are rolled out to meet their targets and economic growth forecasts.

Changes are also taking place in the Irish market. Three Ireland announced it will switch off its 3G network by the end of 2024 and Vodafone is turning off its 3G network at the end of this year, 2023. These changes will especially impact areas with inadequate 4G and 5G services such as Esker Lucan and its environs.

#### **4.6.5 Importance of modern 5G technology**

It is important for the Irish economy to keep abreast of its international competitors for attracting business.

An expert Report Of Professor J. Peter Clinch supporting new 5G investments and its substantial benefits and titled Economic Impact of a Delay in the MBSA 2 Award was submitted to the Commission for Communications and is available from their website. The following is an extract highlighting the importance and benefits of these modern services for the Irish economy.

‘There is extensive evidence that adoption of broadband, digitisation, and ICT contribute positively to GDP and economic growth. The contribution of high-impact digital technologies resulting from 5G,

such as artificial intelligence, high-performance computing, advanced robotics, and virtual and augmented reality, could lead to cumulative additional GDP of €2.2tn in the European Union by 2030, or a 14.1 per cent growth compared to 2017. Additionally, a study found that in the 27 EU Member States, a 1 per cent increase in ultra-fast broadband adoption leads to an increase in about 0.002-0.005 per cent of GDP. By 2030, the adoption of 5G in particular, would in aggregate add US\$1.3tn to global GDP, with a yearly average 0.5 per cent of GDP enabled by 5G.

5G has applications in, amongst others, the healthcare, automotive, transport, and utilities sectors, in the form of smart energy grids, smart cars, fleet management, advanced medical procedures, smart homes, smart workplaces, etc. The highest levels of impact are in the sectors where investment initially takes place - radio, television and communication equipment, construction and, post and telecommunications.

In order to form a wide view of the benefits arising from an investment, the first order, as well as the second order, benefits must be considered. First order benefits from an investment arise from the more direct benefits to the producers of the goods and services. These can be classified as strategic benefits derived from greater access to information about the supply chain, operational benefits and enhanced productivity from increased access to information about operations, direct user benefits for consumers from access to improved goods or services, enhanced access to data that might help administrators and other third parties enhance the provision of services, and increased innovation as a result of 5G's capabilities to enable new business models to develop new goods and services. Second-order benefits arise from the 'knock-on' impacts from the use of goods and services and are generally more indirect benefits to society such as enhanced productivity (economic), reduced pollution (environmental), and enhanced security (legal/regulatory). For example, the incorporation of 5G capabilities in vehicles (by private sector manufacturers) would enable public-sector managers to better monitor vehicular flow and better manage traffic. Second order impacts of better traffic management for society will be reduced travel time, less consumption of hydrocarbons, and reduced pollution.

A study by the European Commission estimates that, in EU27 Member States and the UK, the total cost of 5G deployment will be approximately €56bn in 2020 and will lead to 'trickle-down' or multiplier effects with a value €141bn. These effects are predicted to create 2.3m jobs in EU28 Member States. Specific to Ireland, the study found that a €490m investment in 5G in 2020 will lead to an output of €1,210m and will be responsible for 10,700 jobs.'

#### **4.6.6 Statistics for the Irish market**

At the end of Q1 2023 there were 9,067,419 mobile subscriptions in Ireland, including mobile broadband ('MBB') and Machine to Machine ('M2M'). If mobile broadband subscriptions (339,293) and M2M subscriptions (3,056,326) are excluded, the total number of mobile subscriptions was 5,671,800. This is an increase of 203,436 mobile subscriptions from the last quarterly report. There are more mobiles in use than population in Ireland.

- In Q1 2023 Three had the largest share of mobile subscriptions including MBB and M2M at 43.6%. This was followed by Vodafone with 33.2%, Eir with 14.8%, Tesco Mobile at 4.8% and OAOs at 3.6%.
- In Q1 2023 Vodafone had the highest market share excluding mobile broadband and M2M (35.0%), followed by Three (29.2%), Eir (22.3%), Tesco Mobile (7.7%), Virgin Mobile (2.5%) and OAOs (3.3%).

In Q1 2023 the mobile voice & MBB subscriptions service breakdown is as follows;

- 2G; 1,745,976
- 3G; 1,266,709 (this service is falling in numbers but is to be closed down by Vodafone at the end of this year and Three Ireland at the end of next year).
- 4G; 4,926,874
- 5G; 1,127,860 (An increase from Q3 of 796,604 and Q4 of 988,164).

These figures clearly show the demand within mobile and broadband networks is continuing to grow at an exponential pace. 4G is by far the most important service and 5G is rapidly growing. However, it is important to note that there are over 1.26 million users of 3G services who will need to access 4G and 5G services once this service is closed down.

The immediate, and short term future is 4G and 5G and operators are strategically considering the coverage needs at present and for the future. New applications are being designed with 5G compatibility and new mobiles now are sold with 5G technology.

Existing infrastructure does not have the capacity to meet this demand, as a result the existing telecommunications network must be expanded and upgraded to ensure high-quality, high-speed service.

#### **4.7 Local Planning Policy**

##### **4.7.1 South Dublin County Development Plan**

The current South Dublin County Development Plan 2022-2028 highlights that widespread availability of a high-quality telecommunications network throughout the County is essential to the social and economic development of the County.

Telecommunications and associated structures are given very detailed assessment within the Development Plan. The assessment covers a number of sections including;

##### **4.7.1.1 Under Section 11.4 Information and Communications Technology**

Policy IE5: Information and Communications Technology (ICT)

Promote and facilitate the sustainable development of a high-quality ICT network throughout the County in order to achieve social and economic development, whilst protecting the amenities of urban and rural areas.

- IE5 Objective 1:

To promote and facilitate the provision of appropriate telecommunications infrastructure, including broadband connectivity and other innovative and advancing technologies within the County in a non-intrusive manner.

- IE5 Objective 3:

To permit telecommunications antennae and support infrastructure throughout the County, subject to high quality design, the protection of sensitive landscapes and visual amenity.

- IE5 Objective 4:

To discourage a proliferation of telecommunication masts in the County and promote and facilitate the sharing of facilities.

- IES Objective 5:

To ensure that above ground utility boxes are sensitively located and finished to reduce their visual impact, designing out anti-social behaviour and promoting soft planting around existing and new ones where feasible.

- IES Objective 6:

To require the identification of adjacent Public Rights of Way and established walking routes by applicants prior to any new telecommunication developments and to prohibit telecommunications developments that impinge thereon or on recreational amenities, public access to the countryside or the natural environment.

- IES Objective 7:

Ensure that applications made in relation to the provision of overground telecommunications infrastructure, including planning applications and Section 254 licence applications, take into consideration and demonstrate compliance with the 'Guidance on the Potential Location of Overground Telecommunications Infrastructure on Public Roads' (2015).

**Section 12.11.2 Information and Communications Technology relates to consideration of proposals** for telecommunications antennae and support structures and states applicants will be required to demonstrate the following which are addressed below:

- Compliance with the document Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities (1996) and Circular Letter PL 07 /12 issued by the Department of the Environment and Local Government (as may be amended), and to other publications and material as may be relevant in the circumstances;
- On a map, the location of all existing telecommunications structures within a 2km radius of the proposed site, stating reasons why (if not proposed) it is not feasible to share existing facilities having regard to the Code of Practice on Sharing of Radio Sites issued by the Commission for Communications Regulation;
- The degree to which the proposal will impact on the amenities of occupiers of nearby properties, or the amenities of the area (for example, visual impacts of masts and associated equipment cabinets, security fencing treatment) and the potential for mitigating visual impacts including low and mid-level landscape screening, tree-type masts being provided where appropriate, colouring or painting of masts and antennae, and considered access arrangements;
- The significance of the proposed development as part of the telecommunications network.

The application process and further information addressed the above points, and it is submitted that the results of the reports and assessments prepared which include a Visual Impact Assessment, a Flood Risk analysis, an Arboricultural Impact Assessment and underground services report conclude that the proposal demonstrated the necessary criteria, and the proposal meets with the telecommunications objectives of the Development Plan.

#### **4.8 Telecommunications Antennae and Support Structures: Guidelines for Planning Authorities (1996)**

The Development Plan includes compliance with the Guidelines.

Relevant Sections of the Policy are set out under Section 4.2 relating to Design and Siting and Section 4.3 relating to Visual Impact with the key policy paragraphs in support of the applicant's proposal underlined.

#### 4.2 Design and Siting

The design of the antennae support structure and to a great extent of the antennae and other "dishes" will be dictated by radio and engineering parameters. There may be only limited scope in requesting changes in design. However, the applicant should be asked to explore the possibilities of using other available designs where these might be an improvement. Similarly, location will be substantially influenced by radio engineering factors.

#### 4.3 Visual Impact

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. In most cases the applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters, etc.,

Some masts will remain quite noticeable in spite of the best precautions. The following considerations may need to be taken into account:

Along major roads or tourist routes, or viewed from traditional walking routes, masts may be visible but yet are not terminating views. In such cases it might be decided that the impact is not seriously detrimental

Similarly along such routes, views of the mast may be intermittent and incidental, in that for most of the time viewers may not be facing the mast. In these circumstances, while the mast may be visible or noticeable, it may not intrude overly on the general view of prospect.

There will be local factors which have to be taken into account in determining the extent to which an object is noticeable or intrusive – intermediate objects (buildings or trees), topography, the scale of the object in the wider landscape, the multiplicity of other objects in the wider panorama, the position of the object with respect to the skyline, weather, and lighting conditions, etc.

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.

It is important for the structure to be located above its target area to ensure coverage and line of sight links. It must also be close to the catchment target for effective propagation of services. In this instance a site has been identified away from the housing estates and schools and bearing in mind this very urban environment, it is well hidden within trees. The height of the structure must ensure the equipment is above the trees, as a result there will always be an element of visual impact. Realistically

it is the only available site to ensure the coverage required while being away from the dense urban environment.

A Photomontage was undertaken as part of the application process, and it is considered that the visual impact is minimal.

It is therefore submitted the proposal would be consistent with the guidance of Section 4.3 of the Guidelines on Telecommunications Antennae and Support Structures 1996.

#### **4.9 Zoning**

The Development Plan zones the grounds and lands around Esker House, including the proposed site, and adjoining green areas as open space. The lists for acceptable development within this zoning includes telecommunications.

### **5 Response to Refusal 1;**

Refusal 1 states that the proposal would result in a visually dominant feature that would have a significant adverse impact on the character, setting, special interest of the Protected Structure (Esker House Ref. 101) and its curtilage and therefore would be contrary to NCBH 19 Objectives 1 and 2 of the South Dublin County Development Plan 2022-2028.

#### **5.1 Policy NCBH19: Protected Structures**

This states,

Conserve and protect buildings, structures and sites contained in the Record of Protected Structures and carefully consider any proposals for development that would affect the setting, special character or appearance of a Protected Structure including its historic curtilage, both directly and indirectly.

##### **5.1.1 NCBH19 Objective 1:**

To ensure the protection of all structures (or parts of structures) and their immediate surroundings including the curtilage and attendant grounds of structures identified in the Record of Protected Structures.

##### **5.1.2 NCBH19 Objective 2:**

To ensure that all development proposals that affect a Protected Structure and its setting including proposals to extend, alter or refurbish any Protected Structure are sympathetic to its special character and integrity and are appropriate in terms of architectural treatment, character, scale and form. All such proposals shall be consistent with the Architectural Heritage Protection Guidelines for Planning Authorities, DAHG (2011 or any superseding documents) including the principles of conservation.



## **5.2 Record of Protected Structures (RPS),**

Within the Record of Protected Structures (RPS), Appendix 3A of the County Development Plan, Esker House is listed as follows;

101 Esker House, Esker Bridge, Lucan  
Detached Five-Bay Two-Storey Farmhouse & Outbuildings  
Map 01

The outbuildings are not separately included within the RPS.

## **5.3 Curtilage And Attendant Grounds Of Structures Identified In The Record Of Protected Structures.**

When considering NCBH19 Objective 1, the Heritage Council sought to clarify how to determine the curtilage of Protected Structures as a step towards improving the way to manage our heritage holistically and safeguard the setting of buildings as they make a contribution to landscapes. The Heritage Council arrived with a list of 'Useful Principles', however advised that the 'advice' should not be prescriptive and would be best considered as observations rather than guidelines.

The Irish Statutory guidance refers to the following three considerations when determining curtilage:

1. a functional connection between the structures;
2. an historical relationship between the main structure and the structure;
3. and the ownership past and present of the structures.

The study led to the elaboration of these principles, and the addition of several new ones as follows:

1. Functional connection can be analysed into four strands
2. An historical relationship
3. Ownership and occupation
4. Size of curtilage

The Summary of Useful Principles in full is attached to Appendix 1.

## **5.4 The Architectural Heritage Protection Guidelines for Planning Authorities, DAHG**

Under chapter 13, Curtilage and Attendant Grounds, the following sections are noted,

'By definition, a protected structure includes the land lying within the curtilage of the protected structure and other structures within that curtilage and their interiors. The notion of curtilage is not defined by legislation, but for the purposes of the guidelines it can be taken to be the parcel of land immediately associated with that structure and which is (or was) in use for the purposes of the structure. It should be noted that the meaning of 'curtilage' is influenced by other legal considerations besides protection of the architectural heritage and may be revised in accordance with emerging case law.'

'The extent of the curtilage will need to be determined on a case-by-case basis and should ideally be identified by the planning authority prior to inclusion of the structure in the RPS.'

'In making a decision as to the extent of the curtilage of a protected structure and the other structures within the curtilage, the planning authority should consider:

- a) Is, or was, there a functional connection between the structures? For example, was the structure within the curtilage constructed to service the main building, such as a coach-house, stores and the like?
- b) Was there a historical relationship between the main structure and the structure(s) within the curtilage which may no longer be obvious? In many cases, the planning authority will need to consult historic maps and other documents to ascertain this;
- c) Are the structures in the same ownership? Were they previously in the same ownership, for example, at the time of construction of one or other of the structures.'

With regard to defining the curtilage of Esker House, based on the 'Useful Principles' above it is submitted that the proposed development does not negatively impede on the curtilage of the protected structure. It is also noted that the RPS does not include the term 'attendant grounds' within the record for Esker House.

## 5.5 The National Inventory of Architectural Heritage (NIAH)

The National Inventory of Architectural Heritage (NIAH) maintains a central database of the architectural heritage. It includes separate records for Esker House and the outbuildings.

### **Esker Lucan House and Outbuildings.**

NIAH Sites:

Esker House: Reg No: 11204024 – Farmhouse (Built circa 1770 -1810) – located c. 80 m southeast of the application site

Esker Outbuildings: Reg No: 11204025 - Out buildings - now used for residential purposes (Built circa 1800 -1820) – located c. 120 m southeast of the application site.

The Assessment of these protected properties is as follows;

#### **Esker House, ESKER SOUTH, Esker Bridge, DUBLIN**

Survey Data

Reg No 11204024

Rating; Regional

Categories of Special Interest; Architectural, Artistic

Original Use; Farmhouse

In Use As; House.

Date; 1770 - 1810

Coordinates 303816, 234365 Date Recorded; 14/05/2002

Description

Detached five-bay two-storey farmhouse, c.1780, with shallow advanced end bays. Smooth rendered walls. Timber sash windows. Timber panelled door with simple radial fanlight and side lights. Pitched slate roof with raised gables, each having rendered chimney stacks. Extension to rear with hipped roof. Limestone rubble boundary wall to front. To west a smooth rendered boundary wall with a round-headed doorway with cast-iron gates to gardens. Rebuilt rubble stone gate piers and screen walls with late nineteenth-century cast-iron gates to east.

#### Appraisal

A handsome, substantial Georgian farmhouse retaining much original fabric including attractive entrance gates, beautifully sited facing the Griffeen river. Forms a good group with its outbuildings, acting as a visual boundary for the area of parkland nearby.

#### **Esker South, ESKER SOUTH, Esker Bridge, DUBLIN**

##### Survey Data

Reg No; 11204025

Rating; Regional

Categories of Special Interest; Architectural, Technical

Original Use; Outbuilding

In Use As; Outbuilding

Date 1800 - 1820

Coordinates 303843, 234346 Date Recorded 14/05/2002

#### Description

Complex of two detached multiple-bay single-storey outbuildings, c.1810, the southernmost now converted into a dwelling. Set in an L-shape both have pitched slate roofs and are of limestone rubble construction. Some timber tongue and groove stable doors remaining. Modern skylights to south pitch of converted building.

#### Appraisal

These outbuildings have retained much of their original character and appearance and complement the large Georgian house to the east.

#### **5.6 Changes to the Protected Structure.**

Since the assessments by the NIAH, a number of changes have taken place to Esker House and outbuildings.

Today, Esker House is known as the Chinese Gospel Church Esker House. It was purchased in September 2011 with works completed by August 2012. The planning changes undertaken are detailed below;

- **SD21A/0066**

Retention of pre-school use of single storey annex to rear of main house (Protected Structure). SDCC Decision: Grant Permission, subject to conditions.

- **SD11A/0125/EP:**

(1) Change of use and conversion of existing two storey private house (Esker House) and single storey annex to a Retreat House with ancillary accommodation located in the annex; works to this Protected Structure comprise essential repairs including woodworm, wet rot and damp treatment, refurbished roof timbers, valley gutters, rainwater goods and staircase, new heating and electrical services and the introduction of a new partition and door-set to provide a minor hall and a pastoral office within the old study and complete redecoration of the internal rooms; works to the annex

comprise essential repairs including refurbished roofing and rainwater goods, new heating and electrical services and complete redecoration of the internal rooms;

- (2) change of use and conversion of existing Stable Blocks 1 & 2 to Classrooms / Meeting Rooms and Workshop / Service Room; Stable Block 1 to contain 2 Classrooms and Workshop and Stable Block 2 to contain 4 Classrooms; conversion to include removing existing slates, reinforcing roof timbers and re-roofing using existing slates and details on Stable Blocks 1 & 2 and replacement of existing Velux rooflights on Classrooms 4 & 5 with Velux Conservation Rooflights on Stable Block 2; works include complete redecoration of the internal rooms;
- (3) demolition of existing c. 1970s double height barn;
- (4) construction of a new community building consisting of a Main Auditorium (part single storey, part two storey), and single storey secondary hall, canteen, toilets and ancillary accommodation with a floor area of 1073sq.m.
- (5) demolition of existing c. 1970s derelict Gate Lodge and replacement with single storey two bedroom Gate Lodge for use as caretakers living accommodation with a floor area of 75sq.m.
- (6) taking down, re-aligning and rebuilding existing c. 1970s stone boundary wall at both sides of entrance to site to provide adequate sight lines along Esker Road and provision of new footpath to both sides of entrance, as required by Roads Department, South Dublin County Council;
- (7) extension to existing car parking facilities to provide 55 car parking spaces and associated site works including attenuation of drainage; car parking generally to be finished with permeable paving and overflow car park to be finished with 'Grasscrete' paving to preserve the grassland setting;
- (8) erection of free standing sign inside proposed new boundary wall at Esker Road, 2m long by 0.6m high at height 1.3m from ground level. This application includes an Appropriate Assessment (AA), a Bat Survey and Assessment, a Conservation Impact Study (C.I.S.) and Flood Risk Assessment Report. SDCC Decision: Grant Extension of Duration, subject to Conditions.

- **SD11A/0125:**

- (1) Change of use and conversion of existing two storey private house (Esker House) and single storey annex to a Retreat House with ancillary accommodation located in the annex; works to this Protected Structure comprise essential repairs including woodworm, wet rot and damp treatment, refurbished roof timbers, valley gutters, rainwater goods and staircase, new heating and electrical services and the introduction of a new partition and door-set to provide a minor hall and a pastoral office within the old study and complete redecoration of the internal rooms; works to the annex comprise essential repairs including refurbished roofing and rainwater goods, new heating and electrical services and complete redecoration of the internal rooms;
- (2) change of use and conversion of existing Stable Blocks 1 & 2 to Classrooms / Meeting Rooms and Workshop /Service Room; Stable Block 1 to contain 2 Classrooms and Workshop and Stable Block 2 to contain 4 Classrooms; conversion to include removing existing slates, reinforcing roof timbers and re-roofing using existing slates and details on Stable Blocks 1 & 2 and replacement of existing Velux rooflights on Classrooms 4 & 5 with Velux Conservation Rooflights on Stable Block 2; works include complete redecoration of the internal rooms;
- (3) demolition of existing c. 1970s double height barn;
- (4) construction of a new community building consisting of a Main Auditorium (part single storey, part two storey), and single storey secondary hall, canteen, toilets and ancillary accommodation with a floor area of 1073sq.m.

(5) demolition of existing c. 1970s derelict Gate Lodge and replacement with single storey two bedroom Gate Lodge for use as caretakers living accommodation with a floor area of 75sq.m.  
(6) taking down, re-aligning and rebuilding existing c. 1970s stone boundary wall at both sides of entrance to site to provide adequate sight lines along Esker Road and provision of new footpath to both sides of entrance, as required by Roads Department, South Dublin County Council;  
(7) extension to existing car parking facilities to provide 55 car parking spaces and associated site works including attenuation of drainage; car parking generally to be finished with permeable paving and overflow car park to be finished with 'Grasscrete' paving to preserve the grassland setting; (8) erection of free standing sign inside proposed new boundary wall at Esker Road, 2m long by 0.6m high at height 1.3m from ground level. This application includes an Appropriate Assessment (AA), a Bat Survey and Assessment, a Conservation Impact Study (C.I.S.) and Flood Risk Assessment Report.  
SDCC Decision: Grant Permission, subject to conditions.

- **ED09/0026:** Exterior paint to walls, windows and front door (Protected Structure).

SDCC Decision: Declared Exempt

## **5.7 Conclusion.**

The RPS refers to the House and outbuildings together. The NIAH each separately. With regard to the curtilage of the protected buildings, this has not been defined within any of the records. When considering the above Heritage Council's 'Useful Principles' and The Architectural Heritage Protection Guidelines for Planning Authorities, DAHG, it is submitted that the proposed mast site is strictly not within the area regarded as curtilage for the protected building. This is especially the case when considering the alterations that have taken effect to Esker House and outbuildings since the NIAH record was produced.

The changes to Esker House represent changes taking place in a modern world and necessary adaptation of a rundown and potentially derelict building. These changes have however altered the nature of the Protected Building and the lands around. It is submitted that the proposed mast also represents important changes, including critical infrastructure, for the modern world. Its location within the far ends of the private grounds of the now Chinese Gospel Church, and within a cluster of trees ensures that any impact is minimal to the surrounding environs, the protected structures and associated grounds.

As stated above, a Photomontage was included within the planning process. It is submitted that the proposal does not create a visually dominant feature with significant adverse impacts on the character, setting or special interest of Esker House or its outbuildings.

Bearing in mind the above, the proposal would not be contrary to NCBH19 Objectives 1 and 2 of the South Dublin County Development Plan 2022-2028.

## **6 Response to Refusal 2**

Refusal 2 states that the revised siting of the proposed development, by virtue of the reduction in the separation distance to the Riparian Corridor and associated watercourse to the north of the subject site, would fail to protect the integrity of the Riparian Corridor. The proposed development would therefore be contrary to GI3 Objectives 2 and 3 and Section 12.4.3 of the South Dublin County Development Plan 2022-2028.

### **6.1 Section 12.4.3 Riparian Corridors:**

This section states that the Riparian Corridors of the County include rivers, streams and other watercourses and are important for water quality as well as providing green infrastructure and biodiversity links, see sections 4.2.2 and 11.3.1 for policy and objectives. Development within or affecting Riparian Corridors will be required to:

- Ensure that hydromorphological assessments are undertaken where proposed development is within lands which are partially or wholly within the Riparian Corridors identified as part of this Development Plan.
- Demonstrate how the integrity of the Riparian Corridor can be maintained and enhanced having regard to flood risk management, biodiversity, ecosystem service provision, water quality and hydromorphology.
- Promote and protect native riparian vegetation along all watercourses and ensure that a minimum 10m vegetated riparian buffer from the top of the riverbank is maintained / reinstated along all watercourses within any development site. This is a minimum and should be considered in light of the bullet points above.
- Uncover existing culverts where appropriate and in accordance with relevant river catchment proposals, restore the watercourse to acceptable ecological standards for biodiversity wherever possible, improving habitat connection and strengthening the County's GI network.

### **6.2 Policy GI3: Sustainable Water Management**

This states, Protect and enhance the natural, historical, amenity and biodiversity value of the County's watercourses. Require the long-term management and protection of these watercourses as significant elements of the County's and Region's Green Infrastructure Network and liaise with relevant Prescribed Bodies where appropriate. Accommodate flood waters as far as possible during extreme flooding events and enhance biodiversity and amenity through the designation of Riparian Corridors and the application of appropriate restrictions to development within these corridors.

#### **6.2.1 GI3 Objective 1:**

To ensure that hydromorphical assessments are undertaken where proposed development is within lands which are partially or wholly within the Riparian Corridors identified as part of this Development Plan.

### **6.2.2 GI3 Objective 2:**

To require development proposals that are within riparian corridors to demonstrate how the integrity of the riparian corridor can be maintained and enhanced having regard to flood risk management, biodiversity, ecosystem service provision, water quality and hydromorphology.

It is submitted that although the application submitted should have identified this requirement, it failed to do so. Nevertheless, as the original site location was within the Riparian Corridor such a hydromorphological assessment should have been requested. Even following the revised location of the site, which was a result of the Arboricultural Impact Assessment. The revised location is shown in figure 10 below. Numerous other reports were requested and provided including a flood report. Mitigation measures were taken on board for the raising of the cabinets on steel supports in case of a flood. The development was considered small and due to the remote nature of operation and overall design, relocation due to flooding was not an issue. It is submitted that the opportunity to provide an assessment in respect of the Riparian Corridor or even to relocate the site further should have been considered. Nevertheless, due to the small scale of the development its impact will be minimal, and measures can be taken to protect the aquatic ecosystem during development. This is considered further below.

### **6.3 Hydromorphology**

Hydromorphology is a relatively new discipline which is described in the Water Framework Directive. It is the study of physical form, condition and processes within a surface water body, that create and maintain habitat.

It stems from the term 'fluvial geomorphology', a discipline that focuses on the processes that operate in, for example, a river system (e.g. both water and sediment production and movement, erosion, deposition), and the features that these processes create (e.g. pools, riffles, sediment bars). As these processes create and maintain such features, this in turn will create and maintain habitats for invertebrates, fish and plants.

It effectively studies the aquatic ecosystem which can be regarded as the centre of the Riparian Corridor.

#### **6.3.1 The EPA approach to hydromorphological risk assessment**

The risk assessment is a three stage approach with each stage screening water bodies in order to prioritise further investigation at the final stage.

- Preliminary Risk Screening: this will incorporate information on water bodies with known hydromorphological issues based on expert opinion, along with evaluating national monitoring data in order to identify any indications of other pressures other than eutrophication. This will help identify water quality issues that need to be addressed first; it is vital to tackle water quality pressures prior to implementing hydromorphological measures. These water bodies, along with water bodies with known impacts caused by hydromorphological pressures, will be given high priority for the next stage.

- Initial Hydromorphological Characterisation: this will involve a GIS based desktop assessment to identify the screened water bodies that may be impacted by various hydromorphological pressures.
- Further hydromorphological characterisation: this can include actions such as field assessments to finally assign a risk category to the water body. This will allow the identification of appropriate mitigation and rehabilitation measures. Screening water bodies throughout the process will allow for a streamlined focused approach.

Unfortunately, time does not permit a hydromorphological assessment for the purposes of this appeal. Nevertheless, it is submitted that the aquatic corridor / river is narrow in comparison to other rivers. Please see the photographs shown in figure 1 above. Due to its steep slopes, about 3.2 metres as shown on the development drawings, it was identified as a potential hazard for any development proposal nearby. As a result, health and safety measures would be taken for the development of the proposed structure. It is suggested that should An Bord Pleanála decide to grant consent, that measures are taken to ensure that the watercourse is not disturbed.

### **6.3.2 Riparian Ecosystem**

The Riparian ecosystem effectively forms the remainder of the Riparian Corridor and comprises the vegetation and its ecosystems associated within the area. As mentioned, following the Arboricultural Impact Assessment the site was relocated. The vegetation effectively along the Riparian Corridor comprises trees and grassed area. Trees are the most important aspect of this section of the Riparian Corridor. The revised site is within a grassed area and also over an existing streetlamp, used for the overflow parking. This streetlamp represents already disturbed land area. It is to be relocated further back along the access track. The site foundation area is relatively small being 5.65 metre by 5.65 metres. It is submitted that minor landscaping could be undertaken to mitigate any biodiversity losses due to the foundation area. The remaining area of the site could be re-laid as grass if necessary. In any event a porous membrane is used below any hardcore to ensure rainwater continues to pass through to the ground.





*Figure 10; Overhead view of the revised site location as shown by the red square.*

### **6.3.3 Flood Risk Consulting**

Flood Risk consulting, who undertook the Flood Risk report, were approached for further comment in respect of the Riparian Corridor. Their Ecologist advised that this work involves a site walk to assess biodiversity, habitat, riverbank and to score their quality.

This assessment then feeds into desktop assessment to generate a report. Flood Risk Consulting thought this was excessive for the nature of the development. Additional consultation with Ecofact had a similar view. Neither had the time to complete this additional study for the purposes of the appeal.

The Ecologist did advise that,

- The riverbank will be unaffected, e.g., safe from erosion.
- Habitat will be unaffected.
- Neither will be affected by the telecom's proposal.

We were given consent to reference their view in the appeal

### **6.3.4 Conclusion.**

It is acknowledged that the revised siting of the proposal is within the 10 metre boundary of the watercourse as guided by the width required for a smaller watercourse in respect of a Riparian Corridor. The revised site position being a result of the recommendation by the Arboricultural Impact Assessment. Although the original location of the development was also within the 10 metre distance of the Riparian Corridor, and implication from the refusal is that this may have been granted consent compared to the revised location, it is submitted that the revised location has minimal impact on the vegetation and hydromorphology of the Riparian Corridor. With regard to the river and its ecosystem, for its protection, measures can be undertaken to ensure it is not disturbed during the development process.

Also, as the revised site is closer to the end of the existing access track over a grassed area and also over a street light pole representing land already disturbed, the overall impact of the proposed development is minor, with the opportunity to offset any biodiversity losses with some re-laid grass and or bushes around the foundations and site.

## **7 Assessment**

Vodafone's coverage in Esker and its environs is substandard and in need of significant improvement. It has been highlighted why the proposed structure is required and must be emphasised there is no alternative structure or location that will achieve the coverage objectives for the target area. As stated above, for modern services such as 5G, it is necessary to be within close proximity to the service demand. Vantage have taken into consideration the Development Plan, the protected structures and secured the site in question to provide these vital services with the least impact.

The structure is designed to accommodate other operators and digital users and bearing in mind the weak coverage for all the operators over this area of Dublin it is anticipated other operators will use the mast in the short term.

A comprehensive photomontage series was submitted with the planning process which demonstrates the visual impact of the structure is acceptable. The application structure shall integrate into its surroundings and into the skyline and any visual impacts arising both within the immediate environs and when considered from the context of the protected structures, are minimal.

A grant of permission will allow the much-needed technological advancements to be completed in Esker and its environs. The structure will significantly improve Vodafone's coverage, it shall help eliminate coverage weaknesses and shall make a significant positive contribution to the benefit of residents, businesses, and social enterprises in the area including the N4 and the local road network.

Vodafone in their site selection and infrastructure development aim to provide their customers with a high-quality, high-speed network that can meet both current and future demand. When selecting a site, balance is sought between achieving technical objectives while also ensuring impact on local community is minimised. It is respectfully submitted that the subject application site achieves this.

The refusals refer to the Protected structures and the Riparian Corridor. As discussed, it is submitted that any impact on the protected structures is minimal. With regard to the Riparian Corridor it is acknowledged that the site falls within the 10 metre boundary line for small rivers. However it is submitted that protection measures can be put in place to protect the river during development. Further, the foundation area covers a small area which is mainly grassed. Any loss in biodiversity can be offset by planting around the compound. In addition, the site is also over an existing lampstand. The site has therefore already been disturbed by previous development. As such any biodiversity loss and impact on this area of the Riparian Corridor is further reduced.

## **8 Conclusion**

The proposed site is strategically located to ensure coverage within a weak area of Dublin. The provision of such coverage is a national priority with telecommunications being designated an essential service by Government on 28th March 2020.

Modern technology is recognised as essential for the local and wider economy. To secure a site, it therefore needs to meet both technological and planning criteria, the result often being a mixed balance between the two.

For this application a number of reports and assessments were undertaken, these include a Visual Impact Assessment, a Flood Risk analysis, an Arboricultural Impact Assessment and underground services report. It is submitted that the recommendations of these reports have been taken into consideration with a minor amendment to the location of the proposed structure. Opportunity was not afforded to undertake a hydromorphical assessment as required under the reason for the refusal. However, due to the small scale of the development, nature of the river, it is submitted that both protection and mitigation measures can be put in place.

The impact of the proposed structure in respect of the protected buildings has been discussed and visual impact considered with the preparation of a photomontage. This shows the proposed structure being well hidden from most viewpoints associated with the building. It is therefore submitted the impact is minimal and acceptable.

It is submitted that the final conclusion is that the proposed site has achieved the fine balance between the wide range of planning and technological considerations required for a site at this location and therefore would be compatible with the proper planning and sustainable development of the area.

Government policy and strategy from the top down promotes improved access to digital and broadband communications in a bid ensure Ireland remains a competitive economy, promote new business and growth, facilitate ICT structures, such as the application structure, which are multi-decade essential infrastructure and must cater for existing customer needs but also future needs.

For the above reasons we respectfully request that An Bord Pleanála overturns the local authority decision to refuse permission and to grant permission for the application structure in due course.

Yours sincerely



Michael Foody  
Charterhouse,  
Agent for Vantage Towers

Appendix 1.

## Curtilage: Summary of useful principles

The Irish Statutory guidance refers to the following three considerations when determining curtilage:

1. a functional connection between the structures;
2. an historical relationship between the main structure and the structure;
3. and the ownership past and present of the structures.

The study has led to the elaboration of these principles, and the addition of several new ones as follows:

### 1. Functional connection can be analysed into four strands:

**1(a)** Regard should be given to the use and function of the building and land. Whilst the term curtilage has a long legal etymology relating to houses, its use in relation to other building types relies on careful consideration of the functional requirements of the principal structure, and the need of the principal structure for a certain amount of space around it to fulfil that function.

**1(b)** The layout of the principal structure and other structures on the site, paying attention to the possibility that a parcel of land in single ownership might accommodate physically separate and independent occupants or functions. In an English case, the farmhouse and its farm were considered to be sufficiently distinct from each other that the farm buildings were deemed to be outside the curtilage of the farmhouse.

**1(c)** Whether the land near to a protected structure can be said to be so closely connected with the intended purpose of the principal structure that it forms or formed an integral part of the principal structure. Land containing a tennis court or swimming pool adjacent to a house in the country, for example, was not considered sufficiently integral to the dwellings to form part of their curtilage.

**1(d)** Whether a structure is ancillary, accessory or subordinate to the principal structure in both a functional and a physical sense. This concept is intuitively useful for relatively simple building types, such as houses, but is less straightforward for large factory or barracks sites. These typologies do not necessarily have a dominant building, to which all others on the site can be deemed to be subsidiary.

### 2. An historical relationship

Recent court decisions indicate that, whilst the historical connection or relationship between the main structure and other structure(s) has at least some importance, it is not always interpreted as providing conclusive grounds for asserting that buildings fall within the same curtilage. Recent cases emphasise the primary importance of the use of the land at the time when formal notification of

protection was given, rather than any other previous arrangement.

### 3. Ownership and occupation

Recent cases have found that the curtilage of a building can be smaller than the land in the same ownership as it. The way the buildings or land was occupied can determine the extent of unit of land that is needed for a particular building. The decision not to include a mews building within the curtilage of a house, because it was in separate occupancy even though it was in the same ownership as the principal house.

The cases studied highlight the following relevant considerations:

### 4. Size of curtilage

Size of the curtilage can present challenges in interpretation, for although a curtilage ought in principle to be small, it does not always follow that it must be so. The elaborateness of a house may affect the curtilage it commands – the 'small court, yard or piece of ground attached to a dwelling house and forming one enclosure with it' of the dictionary definition extends to the lawns and distant stables in the case of a country house. Where the site is as important as the structures, such as factories or barracks, it is more difficult to utilise the concept of the functional needs of the building to define how much of the space around the buildings is within its curtilage. Where there is any uncertainty as to whether or not a structure is within the curtilage of another, the appropriate action for a planning authority to take is to include the structure for protection under the 'attendant grounds' provision in the Planning Act.

### 5. Alteration of curtilage

Case law highlights the potential for a curtilage to alter, and even to expand, as the utilisation of the land around the principal structure changes – gardening a greater area of ground related to a property would increase the curtilage of the structure.

### 6. Constructed boundaries of protected structures

It has been found in the U.K. that any owner of land, part of which shares a common boundary with a listed building, wishing to carry out any work to a boundary feature would need to seek formal planning permission, whereas they would not need to do so if bounding a building or structure which is not listed.

Colm Murray, Architecture Officer, The Heritage Council