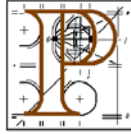


An Bord Pleanála



Inspector's Report

<u>Appeal Reference No :</u>	PL06F.246385
<u>Development :</u>	Erection of 18m high brown monopole telecommunications structure carrying antennae and communications dishes
<u>Location :</u>	ESB's 38KV Sutton Substation, Sutton Cross, Sutton, D13
<u>Planning Application :</u>	
Planning Authority :	Fingal Co. Co.
Planning Authority Reg.Ref.No. :	F16A/0016
Applicant :	ESB Telecoms Ltd.
Planning Authority Decision :	Refusal
<u>Planning Appeal :</u>	
Appellant(s) :	ESB Telecoms Ltd.
Type of Appeal :	1st Party
Observers :	St. Fintan's High School Sean Haughey TD. P. Carroll and C. Campbell Three Ireland (Hutchinson) Ltd.

Date of Site Inspection :

29th June 2016

Inspector :

Leslie Howard

1. SITE LOCATION AND DESCRIPTION :

The application site is located in north-eastern environs of Dublin City, within the suburban village of Sutton. The c.0.00775ha site is located in the north-eastern corner of the ESB's Substation Site in Sutton, North County Dublin. The site exists c.160m south-west of the Sutton Train Station on Station Road (R106). The Dublin Bay Scheme sewerage pumping station is located adjacent to the site, to the east, enabling transfer of sewage from the northern fringe area of Dublin City, to the Ringsend Waste Water Treatment Works.

The Dart line is located c.40m to the north. Located on the former paint factory site, the newly completed Dargan's Way residential development, exists to the west and north-west of the application site. The Binn Eadair Crescent residential estate, comprising mainly of blocks of 2-storey terraced dwellinghouses, is located south and south west of the application site, separated by the pedestrian laneway that extends west to Railway Avenue. The St. Fintans School and sports grounds, and the rugby grounds of Suttonians Rugby Club are located to the south and south-east of the site.

The ESB Substation is bounded by a c.2m high concrete wall with 1.2m high palisade fencing on top. The overall boundary structure measures c.3.2m in height with razor wire visible on part of the palisade fencing. The ESB Substation has been separated into two compounds by a dividing internal fence, with the application site located in part of the eastern compound.

At present, the application site contains an existing, unauthorised, 18m shrouded monopole and a ground equipment cabinet measuring approximately 3m x 2.4m with an overall height of c.3m. This 18m monopole is understood as unauthorised. Further, as notated with a blue boundary area in the application documentation, the adjacent area to the west within the ESB Substation, contains a now unauthorised 20m telecommunications monopole. Both unauthorised structures are the subject of Council enforcement action.

Vehicular access to the site is off Station Road (R106) to the east, and through the Dublin Bay Scheme sewerage pumping station complex and spill-over Dart Station public car park.

2. PROPOSED DEVELOPMENT :

The erection of an 18m high brown monopole telecommunications structure carrying antennae and communications dishes within a proposed 2.4m high palisade fence ESB Substation compound with associated landscaping works.

The proposed monopole will facilitate a consolidation of the existing 'Three Ireland' / O2 and Meteor equipment, currently located on both the now unauthorised two monopoles. The necessary equipment to be housed on the monopole, consists of nine antennae and six dishes.

ESB Telecoms Ltd. Rents the monopole space to each of its mobile network operator customers, who then operate their respective phone and broadband services.

3. PLANNING HISTORY :

(1) The Application Site :

F09A/0605 & PL06F.236084 Retention permission granted to Telefonica O2 Ireland Ltd. (13/05/2010), for the existing 18m high telecommunications monopole support structure, carrying antennas concealed in shroud and link dish, together with associated equipment container and security fence.

F09A/0345 Retention permission refused to Telefonica O2 Ireland Ltd. (20/08/2009), for the existing 18m high telecoms monopole support structure, carrying antennas and link dish, together with associated equipment container and security fence, previously permitted under **F04A/0427**.

F04A/0427 Retention permission granted to O2 Communications (Irl) Ltd. (19/05/2004), to continue the use of the existing permitted (**F98A/0353**), and current (**F04A/0339**) with respect to GSM base station consisting of an 18m. monopole support structure with associated telecommunications equipment container in palisade fencing forming part of cellular digital mobile communications network.

F98A/0353 Planning permission granted to Esat Digifone (20/08/1998), to erect an 18m. high monopole support structure with GSM telecommunications antennae and palisade chainlink fencing.

(2) **Adjacent Site within the blue-site boundary :**

F15A/0128 & PL06F.244994 Permission for continued use refused to ESB Telecoms Ltd. (21/09/2015), for the existing 20m telecommunications structure, carrying antennae and communication dishes (previously granted permission under **F09A/0525 & PL06F.235546**), and to attach additional antennae and communication dishes for possible future co-location.

F09A/0525 & PL06F.235546 Retention permission and permission granted to ESB Telecoms (13/05/2010), for :

- the existing 20m high telecommunications structure, carrying 9no. antennae and 7no. link dishes, together with associated equipment and cabinets (granted permission under **F04A/1070**), and
- to attach an additional 3no. panel antennae and 1no. link dish to the structure to enable further third party co-location.

F04A/1070 Permission granted to Electricity Supply Board, Telecoms (13/09/2004), for a 20m high free standing wooden telecommunications pole, carrying antennae and communication dishes, with associated ground mounted equipment cabinets.

(3) **Enforcement History :**

16/02B Warning letter issued 06/01/2016, regarding a telecommunications structure for which retention permission has been refused (**F15A/0128** and ABP **PL06F.244944**)

16/01B Warning letter issued 06/01/2016, regarding a telecommunications structure for which planning permission has expired (**Reg.Ref.No.F09A/0605** and ABP **Reg.Ref.No. PL06F.236084**)

4. PLANNING AUTHORITY DECISION

(1) **Planning Authority Decision :**

Fingal Co. Co. decided to REFUSE PERMISSION for the proposed development, for 2no. stated 'Refusal Reasons', summarised as follows :

Refusal Reason No.1: Non-compliance with Objective IT06 of the County Development Plan 2011. Due to its height, design and close proximity to adjoining residential dwellings, the telecommunications structure would be overbearing and visually intrusive when viewed from surrounding residential properties.

Refusal Reason No.2: The applicant has failed to demonstrate compliance with the Telecommunications Antennae and Support Services – Guidelines for Planning Authorities (July 1996) and the Code of Practice on Sharing of Radio Sites, as required by Objective IT09 of the County Development Plan 2011. The proposed development therefore materially contravenes Objective IT09.

(2) **Planning Reports :**

The Planning Officers report dated 16/03/2016, recommends that permission be REFUSED, generally for the same 2no. Refusal Reasons set out in the Decision Order above. This recommendation was made having regard to the following :

- (a) Pre-Application consultations held with Council's Planning Department. Confirm concerns raised by the Planning Authority with the applicant regarding :
- (i) requirement.
 - (ii) siting.
 - (iii) design of the proposal.
- (b) **Planning Assessment of the Key Issues :**
- (i) **Compliance with Ministerial Guidance and Development Plan Objectives :**
 - Under the GE Zoning Objective, telecommunications structures are permitted in principle.
 - However, the proposed development, comprising six dishes and nine antennae on a new 18m high monopole, does not contribute to achieving Objective EE29, which seeks "high quality

sustainable design, permeability and pedestrian / cyclist friendly environments within the GE Zone”.

- The applicants Planning Statement, assessed against Objectives IT04-IT09 of the Development Plan 2011.
- Recognise the essential need for high quality communications and information technology networks within Fingal.
- Objective IT04 enables provision of necessary telecommunications infrastructure in compliance with the Guidelines for Planning Authorities, 1996.
- Chapter 4.3 of the Guidelines prescribe that :
 - only as a last resort should free standing masts be located in a residential area or beside schools.
 - masts should be designed and adapted for the specific location.
- The Guidelines also suggest the existing ESB Substations may be suitable for the location of antennae support structures.
- Having regard to the recent history of planning decisions on the Substation site, conclude that the existing ESB Substation is not a suitable location for antennae support structures, due to consequent negative visual impacts on adjacent residents.
- With respect to the application site being a “last resort”, note the applicant’s statement that there is no suitable alternative structure in the locality.
- Whilst noting the applicant’s provision of a map showing two existing telecommunications sites within a 1km radius, as required under Objective IT09, the applicant has not submitted any details in relation to the feasibility of utilising these sites to cater for the needs of Three Ireland.
- Point out that the applicant acknowledges the Sutton Dart station as a more suitable location with respect to separation distance to nearby houses. However, the existing views from Strand Road and the Promenade would result in more significant

negative visual impacts than from the current application site.

- Affirm that overall, the applicant has not adequately explored the feasibility of collocating the proposed monopole in an alternative location, and which would result in less adverse effects on local residents.
- The Planning Authority discern that the need for a new monopole on the application site, is generated by the needs of Three Ireland, in order to sustain mobile and broadband coverage from the site, currently provided via the existing unauthorised structures.

Rather, express the view that this approach undermines the potential benefit of site sharing and co-location as required under Objective IT09, and the “Code of Practice for Sharing Radio-Sites”. Emphasise these provisions seek to utilise existing structures, rather than generating the need to construct new additional structures.

- It is not clear if the proposed 18m monopole is required to maintain a SCADA link for the ESB itself, or if this could be enabled by other means on the site.
- Several 3rd Party Objections were lodged, addressing contravention of Objective IT05 of the Development Plan 2011, which requires a 200m separation distance between schools and telecommunications structures. The Planning Authority concur the proposed location contravenes Objective IT05.

However, note the most recent Ministerial Circular – PL07/12, clearly states Planning Authorities should not apply minimum separation distances as they inadvertently can have a significant impact on the roll out of a viable and effective telecommunications network.

Point out the draft Fingal Development Plan 2017, does not include an Objective specifying minimum separation distances from telecommunications structures.

(ii) **Visual Impact :**

- Planning Authority notes and acknowledges :
 - the substantive proposals made by the applicant in mitigation of visual impact.
 - the proposed development location within an existing ESB Substation, which has a number of buildings and equipment located within it.
- However :
 - none of the existing monopoles within the ESB Substation are authorised.
 - the contextual development surrounding the site has changed significantly since the decisions issued under **F09A/0605** and **PL06F.236084**. Adjacent lands zoned 'RS' has been developed as Dargans Way, with new houses within 30m of the proposed monopole, and with public open space abutting.
- Whilst resembling a wooden telegraph pole, common in the local urban landscape, and noting existing Utility type development both on and proximate to the site, the proposed monopole would be visible from a number of locations, including adjacent houses and St. Fintans School. Having regard to the level of attached equipment proposed, the proposed pole will be bulky, when viewed from the surrounding neighbourhood generally, and Nos'. 15-17 Dargans Way specifically, which are the closest houses.
- Having regard to the 'RS' zoning objective, and the newly constructed Dargans Way residential development, conclude the proposed development would be "visually overbearing" and accordingly negatively impact the residential amenities of the surrounding local residents.
- Whilst noting the landscaping proposed in mitigation of visual impact, conclude that inadequate mitigation of adverse visual impact will result. The Planning Authority conclude this view having regard to the fact that :

- due to available space, any trees planted in this location would reach a maximum height of 8m.
- the use of palisade fencing is not appropriate adjacent to the public open space and residential area. Rather, “a more suitable boundary treatment is encouraged”.
- trees of a height of 8m plus, potentially interfere with the functionality of the proposed monopole.

Specific reference was given to the views of the Council’s Parks and Green Infrastructure Section.

- Conclude, the design and location of the proposed monopole, together with landscape screening proposed, will not adequately mitigate the adverse visual impacts of the proposed development.

(iii) **Health Effects :**

- Whilst noting several 3rd party objections in this regard, Circular Letter PL07/12 clearly states that health and safety aspects associated with telecommunication masts are regulated by other codes and should not be additionally regulated by the planning process.
- Accordingly, the issue of health effects is not considered in the context of the current application.

(iv) **Appropriate Assessment :**

Having regard to the location and nature of the proposed development, no adverse impacts to European sites either alone, or in combination with other plans and projects, will result.

(c) **Conclusion :**

- (i) The proposed development would :
 - seriously negatively impact the residential amenity of adjacent lands.
 - Significantly detract from the amenity and character of the surrounding area.
- (ii) Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

- (3) **Departmental Technical Reports :**
Transportation Planning Sect. : No objection – 25/02/2016.
- (4) **Prescribed / Statutory Bodies :**
None apparent.
- (5) **3rd Party Objections / Submissions:**
- (a) 12no. 3rd party objections / submissions noted;
- (b) Planning issues argued summarised under three headings, and include the following :
- (i) **Visual and Amenity Impacts :**
- Contravention of Objective IT05 of the Development Plan 2011, which seeks to prohibit masts within 200m of a school.
 - The proposed mast is <100m from Suttonians Rugby Club, where children attend training and where a Montessori operates.
 - 21no. homes are located within 50m of the proposed mast.
 - Due to height, design and close proximity to houses, the proposed development is overbearing and visually intrusive to residents.
 - The current proposed development has greater negative impacts and affects more homes, more intensely and inappropriately, than previous **F15A/0128**.
 - Serious injury to proximate residential amenity and depreciation of property value
 - The proposed mast will be located <10m beside a green space used by local children
 - the proposed development represents an intensification of use, in so much as it combines all the equipment from two existing, now expired monopoles.
 - the existing structures on site have no permission, and should be removed.
 - the proposed development will significantly obscure the view to Howth Head, from the front of No.15 Dargans Way.
 - No amount of screening will hide the proposed structure. Whilst mature, the existing trees are

ineffectual in masking the unsightly nature of the existing masts locally.

(ii) **Alternative Locations :**

- Two other phone masts already exist locally – at the Baldoyle Industrial Estate and the Sutton Shopping Centre.
- Site sharing should be considered instead of more masts.
- Several more appropriately located telecoms sites exist within 1km of the proposed development. These could be used by the applicant on a co-location basis, rather than the current proposed development.

(iii) **Health Impacts :**

Anxiety for residents, consequent of perceived health risk, and worry generated by the proposed development.

5. 1st PARTY GROUNDS OF APPEAL : ESB TELECOMS LTD. – 30/03/2016 :

(1) **Planning History of the ESB's 38kV Sutton Substation :**

(a) **O2 Structure :**

- (i) Permission granted to Esat Digifone (1998, **F98A/0353**), for a 18m monopole support structure located on the eastern side of the ESB site.
- (ii) This structure subsequently passed into the ownership of O2, and now Three (Ireland).
- (iii) This structure has proven structurally unsuitable for maintaining modern 3G and 4G equipment, and cannot support multiple operators.
- (iv) Retention permission granted to O2 in 2004 (F04A/0339).
- (v) Retention permission refused in 2009, due to proximity to the nearby school. However, retention permission was granted on appeal under **PL06F.236084**.
- (vi) Planning permission for this structure lapsed in May 2015.
- (vii) Point out that this O2 / Three structure was referenced by the Boards Inspector, in the recent appeal decision refusing planning permission for the nearby ESB Telecoms structure (**PL06F.244994**). In the assessment, the Inspector questioned the suitability of the ESB's structure located closer to the new housing development,

when the O2 structure was existing within the ESB compound, and not zoned residential.

(viii) O2 / Three Ireland have clarified to ESB Telecoms Ltd. that planning permission for their structure was allowed to lapse, because :

- it is not suitable for facilitating modern 4G equipment.
- it cannot facilitate additional operator equipment by way of co-location.

(ix) Further, Three Ireland, as the new owners, clarified that their plan was to therefore relocate all equipment onto the ESB structure, which was then subsequently refused under **PL06F.244994**

(x) ESB Telecoms emphasise the consistent, sustained need for multiple operators' telecommunications infrastructure at their Sutton Substation.

(b) **Original ESB Telecoms Structure :**

(i) Permission granted to ESB Telecoms Ltd. (2004, **F04A/1070**), for a 20 metre high, free standing wooden communication pole, located on part of the ESB Sutton Compound

(ii) This permission was granted, having particular regard to the acute need for multi-operator infrastructure in the locality.

(iii) The applicant confirms that since its erection, this structure was made available to all potential customers on the basis of co-location.

(iv) This site of the ESB's co-located telecommunications structure, was subsequently rezoned to residential, in the Fingal County Development Plan 2005-2011.

(v) Retention permission for its continued use, and planning permission for attachment of additional equipment enabling further 3rd party co-location was refused (2009, **F09A/0525**).

However, retention permission and permission was granted on appeal under **PL06F.235546** (13/05/2010), wherein the Board noted national policy in relation to masts.

(vi) Permission for its continued use, and planning permission for attachment of additional equipment enabling further

3rd party co-location was refused (22/05/2016, **F15A/0128**).

This refusal decision was sustained on appeal under **PL06F.244994**, for two refusal reasons :

- proximity to the new housing development, located to the west of the site, which had not been insitu 5 years previously.
- the RS residential zoning objective, under which the site fell in the Fingal Development Plan 2005, since 2005.

(2) **Alternative Sites :**

- (a) Applicant confirms that both themselves (ESB Telecoms Ltd.) and their customers (the mobile network operators), have actively sought replacement sites in the area, that could plug the gap in the networks that will result, consequent of the loss of all of the existing telecommunications structures at the ESB's Sutton Cross 38Kv Substation compound.
- (b) This site suitability analysis covered local clubs and landowners in the vicinity of the Substation Compound, and included the Golf Club, the Rugby Club, along the Dart / Railway line, and the Sutton Dart Station.
- (c) The analysis concluded that no suitable sites are available in the immediate area.
- (d) Emphasise that the ESB Sutton Substation site has been actively serving the network needs of Irelands mobile operators for 18 years, ensuring services are delivered into the local area, where suitable infrastructure is in very short supply.

(3) **Clarification and substantiation of the proposed development :**

- (a) In response to the Boards refusal reasons under **PL06F.244994**, ESB Telecoms Ltd., made application for planning permission for the erection of a more slender and shorter telecoms support structure (18m), set back more than twice as far from the nearest residential properties, as the existing ESB site refused under **PL06F.244994**.
- (b) Emphasise the application site is located within the ESB Utility Compound, where such development is considered suitable.
- (c) The DoEHLG Guidelines specifically promote the use of utility compounds, for enabling telecommunication structures within residential areas, where other suitable sites cannot be found.

- (d) Include in the appeal submission, documentation from ESB Telecoms Ltd. customers, the mobile network operators, expressing support for the proposed development, and referencing their efforts towards identifying suitable alternative sites.

(4) **The Planning Authority Refusal Reasons :**

- (a) **Refusal Reason No. 1 – Contravention of Objective IT06, due to height, scale and proximity to adjoining houses :**
- (i) Reference the DoEHLG Guidelines 1996, as best practice regarding contentious sites, or sites located proximate to residential or educational lands.
 - (ii) At Section 2.4.1, the Guidelines set out how topography and population density dictate, generally.
 - (iii) Contextually, the Sutton area is predominantly residential, with a lack of tall commercial buildings. Consequently, there exists a lack of suitable roof top locations locally, onto which base stations may be located, providing adequate coverage for modern 4G services.
 - (iv) Emphasise the ESB's Sutton Cross 38Kv Substation compound has supported multiple mobile operator networks for many years. The original monopole was erected in 1998.
 - (v) There is a scarcity of both :
 - alternative structures in the area, for the existing mobile network operators at the ESB Substation to relocate to, and
 - sites, due to the residential nature of the area, and the consequent proximity of any potential site to houses
 - (vi) Having regard to the de facto conditions, emphasise the DoEHLG Guidelines state "should free-standing masts be located in a residential area or beside schools ... sites already developed for utilities should be considered and masts and antennae, be designed and adapted for the specific location".
 - (vii) Emphasise the proposed new structure has been designed to be the smallest possible (18m), whilst catering for the quantum of equipment necessary to operate the telecommunications networks in the area. This complies with Section 2.4.2 of the DoEHLG

Guidelines. The height was logically determined as being capable of accommodating 3 sets of antennae at the varying heights, so that the mobile network operators can avail of point to point connectivity, to any nearby tower structures.

- (viii) At Section 4.3, the DoEHLG Guidelines promote co-location as a means to reduce the proliferation of masts. Historically, the ESB's 20m monopole was offered to all potential customer mobile network operators, as a point of co-location. Two customer operators were located on it.

For structural reasons, the slender O2 monopole was not capable of supporting additional operators, and it was intended that the equipment attached to the O2 structure be relocated onto the 20m ESB structure in due course. It was for this reason that the planning permission for this structure, was allowed to lapse in 2015.

- (ix) Emphasise that it was never intended by the ESB's customer mobile network operators, to have no telecoms structure located at their Sutton substation compound. To do so, would result in hugely diminished services to customers resident in the Sutton area of the three separately operated networks – Meteor, Three and O2. Clarify that the O2 network will be operated in parallel with that of Three, for some time to come, whilst the two companies merge.

- (x) The design of the proposed structure must be capable of catering for needs of multiple mobile network operators, in order to meet the telecommunications needs of the broader area.

- (xi) ESB Telecom's intend comprehensive planting and landscaping, in mitigation of visual impact. In this regard, draw reference to the successful screen planting around the ESB's Whitestone Substation off the N81 in Tallaght.

- (b) **Refusal Reason No. 2** – Contravention of Objective IT09, re. substantive demonstration of the proposed development as part of the wider national telecommunications networks, and including why it is not feasible to share other structures locally :

- (i) The Commission for Communications Regulation's (ComReg's) 'Code of Practice on Sharing Radio Sites', referenced in Objective IT09, intends to limit the number

of new build sites required to cater for the increased number of base stations required for the roll-out of 3G technology. This is to be achieved by way of co-location of network operators on existing structures.

- (ii) Emphasise the existing ESB Sutton SubStation compound already has three ESB customer mobile network operators, operating from it. All of these three existing operators intend co-locating on the proposed development, should planning permission be granted.
 - (iii) A telecommunications structure located at this site, is considered essential for the delivery of modern communications services to both business and residential customers in the Sutton area (see letters of support and technical justification submitted by Mosaic on behalf of Three and Meteor, included with the appeal submission).
 - (iv) ESB Telecoms Ltd. argue that Objective IT09 has already been complied with, as multiple mobile network operators are set to co-locate on the proposed development. The proposed development is precisely the type of telecoms structure being promoted in the ComReg 'Code of Practice'.
 - (v) ESB Telecoms Ltd. strongly dispute the Planning Authority opinion that the proposed development does not comply with the 'Code of Practice'.
 - (vi) Rather, ESB Telecoms Ltd. argue the proposed development would be appropriate and in compliance with the DoEHLG's "Telecommunications, Antennae and Support Structures – Guidelines for Planning Authorities, 1996".
- (5) **3rd Party Submissions :**
- (a) Many of the 3rd party concerns argued, were dealt with in previous applications' and subsequent appeals, most notably **PL06F.235546**, which addressed the same site as the current application.
 - (b) Regarding health and safety concerns, reference the research and study completed into the possible negative effects from mobile phone masts, on human health. Specifically, reference the Inspectors conclusion under **PL06F.235546** that "there is no conclusive evidence of adverse health effects from mobile

phone masts”, and therefore, “it would be unreasonable to refuse permission relating to health and safety issues”.

- (c) The ESB are committed to the mitigation of visual impact on adjacent residential properties, from the proposed development
- (d) The ESB refer the Boards attention to Hutchinson 3G’s support letter. This letter emphasised the importance of a telecoms structure at the ESB Sutton Substation, as they would require two replacement structures locally, to make up for the loss of coverage and network resilience afforded by the application site. Argue that such a scenario would run contrary to the ComReg Code of Practice highlighted in the Planning Authorities reason for refusal of planning permission.
- (e) Contextualise for the Boards attention, that mobile network base stations work on a cellular basis.
These cells generally increase, or decrease in size, depending on user intensity and population density.
However, smartphone usage, and 4G, with associated increase in data capacity , are placing increased pressure on cell sizes. As mobile apps and smartphone internet access becomes standard, cells are consequently getting smaller, and with higher download speeds reducing the cell sizes further, with the consequent need for additional base stations generally.
Emphasise therefore, that the removal of all telecommunications structures from the ESB Sutton Substation, would result in a gap in coverage for end users resident locally, and which would require the construction of other structures in the area. This consequence was set out in the Mosaic submission.
Conclude that no obvious, suitable locations for telecommunications structures exist locally, and that there is no guarantee end users would not suffer a permanent loss of coverage locally, were the current application to be refused.
- (f) “Map 2 : ComReg Site viewer – Base stations in the general area 2km west of appeal site”, contextualises the existing site located approximately halfway between the base station clusters of Baldoye and Sutton Cross.
Emphasise the fact that 3no. mobile network operators pay a rental fee to locate base stations at the ESB Substation compound is proof that the proposed development is necessary. The general norm today, is for base stations to be located every 500-700m within built-up areas, in order to accommodate indoor coverage demand. Within this configuration, each telecoms

structure accommodates a number of base stations located at a particular site

Emphasise the 500-700m distance is required to deliver the standard of services expected of customers in 2016.

(6) **Conclusions :**

- (a) All of national, regional and local policy and strategy consistently emphasise the need for continued investment in telecommunications infrastructure.
- (b) Irelands knowledge based and value added economy is dependent on an efficient and cost effective broadband network (ref. NDP, Chapter 2, pg.63).
- (c) Sustained investment in telecommunications infrastructure is emphasised in each of the National Spatial Strategy (ref. NSS, 3.7.3), and in the new Development Contribution Guidelines for Planning Authorities.
- (d) With mobile penetration rates nearing 100%, increased social benefits are to be derived locally, from a robust telecommunications infrastructure. These benefits include : universal access to public services, social networking and interaction, media and broadcasting, and e-learning amongst others.
- (e) The proposed development, if granted planning permission, would actively support implementation of the suite of national, regional and local telecommunications policy , for the area generally.
- (f) Suitable alternative sites within the Sutton area are very limited, due to the urban residential nature of development locally.
- (g) In their submission, Mosaic, the infrastructure and network management agency on behalf of Meteor and Three (including the newly acquired O2 network), argue that suitable, alternative sites are scarce locally, and extensive effort has been invested in order to establish base stations at nearby locations proximate to the ESB SubStation.

The DoEHLG 1996 Guidelines advocate that substation sites are best placed to accommodate telecommunications infrastructure , in areas where no alternative sites are apparent. Accordingly, ESB Telecoms argue that this is precisely the type of Substation site, located as it is in a residential area, and with limited suitable, alternative sites locally, which is advocated at Section 4.3 of the DoEHLG 1996 Guidelines

- (h) all three of the current mobile network operators located at the ESB's Sutton Substation have stated intention to relocate to the proposed development, should planning permission be granted. Consequently, all the previous structures would be removed, resulting in a reduction in the number of telecoms structures from the two which have existed at the SubStation to date. The improved result will comprise one, shorter, more slender telecommunications structure, set back further from the nearest house than before.
- (i) having regard to the relevant planning history of this site, both the Planning Authority and An Bord Pleanála have had regard to the SubStation site as an appropriate location for telecoms investment.
- (j) ESB Telecoms mobile network operator customers point out that, removal of this structure would lead to pressure for the construction of multiple new structures in the area, with these located proximate to housing elsewhere in the locality.
- (k) The ESB Sutton Substation has been a telecoms site for many years, with considerable investment in the property over the years, both by ESB Telecoms Ltd. itself, and by its mobile network operator customers.
- (l) Notwithstanding many of the same 3rd party objections argued against telecoms development over the years, An Bord Pleanála have deemed the overall Substation site suitable, in principle, for telecommunications.
- (m) Having regard to compliance with all of relevant national, regional and local policy guidance, the proposed development is in accordance with the proper planning and sustainable development of the area.
- (n) ESB Telecoms Ltd. strongly draw the Boards attention to the submission made by 'Mosaic', on behalf of the mobile network operators, and consider :
 - (i) the effects a refusal of planning permission would have on services delivered into the Sutton area, and
 - (ii) the future impact of building replacement structures at less suitable locations in this residential suburb.

6. RESPONSES / OBSERVATIONS TO THE 1st PARTY GROUNDS OF APPEAL :

(1) Planning Authority Response (see 25/04/2016) :

- (a) The Planning Authority remain of the view that the proposed telecommunications structure, by reason of its height, design and close proximity to adjoining houses, would be overbearing and visually intrusive when viewed from surrounding houses.
- (b) Having regard to the 1st party appeal submission, it is not clear whether Meteor would co-locate on the proposed new mast, in addition to Three Ireland (including the merged O2). Point out the Mosaic letters referenced in the appeal submission, have not been included for the Planning Authority attention. Therefore, compliance with Objective IT09 has not been clearly demonstrated.
- (c) Request that the Board uphold the decision of the Planning Authority.

(2) Observation – St. Fintan’s High School (see 19/04/2016) :

- (a) The proposed telecommunications structure would be adjacent the school’s boundary wall, and within c.50m of its playing pitch.
- (b) the mast would also be c.185m from the school building, thereby contravening Objective IT05 of the Fingal Development Plan 2011, which seeks “to reserve an area of land 200m in radius around school premises / sites free from the erection of mobile phone masts”
- (c) With an enrolment of 700 students, and staff of 45, the proposed telecommunications structure would be visually intrusive, and would constitute an inappropriate use of the site, thereby contravening Objective IT06 of the Development Plan 2011.
- (d) Request the Board refuse planning permission for the proposed development.

(3) Observation – Sean Haughey TD (see 14/04/2016) :

- (a) Confirm opposition to the proposed development.
- (b) The proposed telecommunications mast, due to its height, design and close proximity to nearby houses, will be overbearing and visually intrusive. This is particularly so, with respect to houses comprising Dargans Way and Binn Eadair View, some of which are 25m away from the proposed mast.

- (c) The proposed development would contravene Objective IT05 of the Development Plan 2011, as the mast would be within 185m of St. Fintans High School.
 - (d) The proposed development will be contrary to the proper planning and sustainable development of the area.
- (4) **Observation – Phil Carroll and Claire Campbell (see 11/04/2016) :**
- (a) Reference historical refusals on this site for telecommunications masts, by both Fingal County Council and An Bord Pleanála, under **F15A/0128** and **PL06F.244994**. Argue these refusal decisions, together with the refusal reasons be sustained with respect to the current ESB Telecoms Ltd. application.
 - (b) Emphasise the overbearing and visually intrusive impact the proposed new mast will have on their residential amenity. In contrast to the adjacent pumping station, the proposed new mast will be a visual eyesore to local residents, Dart commuters, including tourists.
 - (c) Notwithstanding the historical refusal decisions, and the expiry of planning permission for the second existing mast, the two telecoms masts remain existing on site. Argue the applicant is in disregard of the Planning Authority’s refusal decision. Therefore, urge the Board to refuse permission for the proposed development, “but to also ensure the removal of the existing structures as a condition attached to the refusal”.
 - (d) Emphasise the unsuitable location for the proposed new mast, proximate to the surrounding residential neighbourhoods, and with particular regard to the children.
 - (e) Argue there already exist two mobile phone masts locally, which sustain cellular coverage for the Sutton and Baldoyle area. The application site is located approximately 500m from one of these existing masts. As per policy, site sharing should be considered, instead of more masts.
 - (f) Concern regarding unknown impacts on their health, the health of their children and the community.
 - (g) Concern regarding undesirable locational proximity to local schools and sports clubs, with particular reference to children.
 - (h) The existing masts have negatively impacted the resale potential and property value of adjacent houses
 - (i) The proposed new mast will render local residents back gardens unusable.

- (j) Concern that the applicant sustains pursuit of planning permission on this small site, when planning authorities have already refused such permission.
 - (k) Accordingly, “urge An Bord Pleanála to refuse this appeal but to also instruct that no further planning permission for the location of masts on this site is sought as a condition attached to the refusal”.
- (5) **Observation – Three Ireland (Hutchinson) Ltd. (see 11/01/2016) :**
- (a) Re-emphasise the importance argued by ESB Telecoms Ltd. of the proposed development, to the existing Three Ireland mobile network, and the need to keep telecommunications infrastructure at the strategic ESB Substation site.
 - (b) Figure 4: ‘Predicted areas of loss of Indoor UMTS coverage’, attached, illustrates the areas probable to experience a loss of indoor service. A local population of over 1200 residents would be affected.
The loss of the ESB Sutton site will result in either a direct loss or reduction in coverage and / or quality of service for existing H3G and MMC customers and legacy O2 customers resident locally. A comparable impact will result to 4G services.
 - (c) A refusal of planning permission would create “a considerable mobile coverage “black spot””, stretching from Sutton Dart station to Bayside Dart station, and down along Dublin Road. Residents of Sutton Park, Sutton Lawns and Sutton Downs will be similarly, negatively impacted. Dart users will also lose signal between Sutton and Bayside stations.
 - (d) Confirm no existing sites locally could serve the needs of Three Ireland. Following an extensive search of the area, alternative, suitable sites have not been identified. The availability of suitable sites is constrained by local topography, the predominance of residential land use, and the location of schools at either side of the potential mobile coverage black spot”.
Conclude therefore, the only option available to Three Ireland, in order to maintain coverage levels locally, is the proposed ESB installation at its Sutton Substation compound.
 - (e) Include substantive letters from each of ‘Meteor’ (24/03/2016) and ‘Three Ireland (Hutchinson) Ltd. (24/03/2016), arguing in favour of the proposed development.

- (f) Three Ireland strongly urge the Board to grant planning permission for the proposed development, so that existing mobile network operators currently located at the ESB substation compound, can maintain the existing standard of services into the Sutton area.

Response – Planning Authority (see 25/05/2016) :

- (a) Planning Authority recognise the removal of the telecommunication infrastructure will result in a loss of coverage for customers. This is reflective of the current baseline, given there are no authorised telecommunication structures on the application site.
- (b) The applicant has not provided sufficient information supporting the claim that:
 - (i) there are no existing sites locally, which could serve the needs of Three Ireland, and
 - (ii) new alternative sites have not been identified following an extensive search of the area.
- (c) Point out that whilst the applicant indicates existing telecommunications sites within a 1km radius (see map in Section 2.3), no feasibility analysis is available, regarding the use of these sites to cater for the needs of Three Ireland.
- (d) Planning Authority supports Objective IT04, which seeks to provide telecommunications infrastructure throughout Fingal County, in accordance with the DoEHLG Guidelines 1996.
- (e) However, the proposed monopole, by reason of its scale and location on site :
 - (i) would seriously injure the residential amenity enjoyed on adjacent lands, and
 - (ii) would significantly detract from the amenity and character of the surrounding area.
- (f) The proposed development is therefore, contrary to the proper planning and sustainable development of the area.

Response – ESB Telecoms Ltd. (see 02/06/2016) :

- (a) Emphasise that ESB Telecoms Ltd. have worked closely with 'Mosaic', the infrastructure management company looking after the network needs of both Three Ireland and Meteor, including the search for alternative sites on 3rd party lands.
- (b) ESB Telecoms Ltd. have been proactive in assessing suitable, alternative sites locally, taking into account the network needs of

the ESB's existing Sutton Substation customers – Three Ireland and Meteor.

- (c) Explanation and clarification provided for the Board, of Three Irelands representation of the current status of mobile cellular network operation in the Sutton area, and as part of the broader network. The report “Sutton ESB Impact Analysis” is included with the Observation by Three Ireland (Hutchinson) Ltd. (see 11/01/2016). The report includes : Figure 1: “UMTS Indoor coverage provided by Sutton ESB”, Figure 2: “Existing UMTS Indoor Coverage”, Figure 3: “UMTS Indoor Coverage without Sutton ESB, and Figure 4: “Predicted areas of loss of Indoor UMTS coverage”. A local population of over 1200 residents would be affected, consequent of the potential mobile coverage black spot anticipated, should the current ESB application be refused planning permission.
- (d) Clarify that whilst there are other base stations in the area, “these locations already serve particular areas and cannot easily be adapted to cover the “not spot” that will be created in the event of a refusal of permission”.
- (e) Further confirmation made, that due to the lack of existing telecoms infrastructure locally, the mobile networks are stretched as it is, with consequent difficulties at busy periods.
- (f) Figure 4: “Predicted areas of loss of Indoor UMTS coverage”, clearly illustrates the areas to be left without indoor coverage, should all existing telecommunications structures be required to be removed from the ESB's Sutton Substation.
- (g) The areas worst affected include all lands south of the Dart line between Sutton and Baldoyle, as well as lands to the north of the dart line.
This affected area is heavily residential in nature, and also includes several schools. The consequence is that the number of potential sites locally, capable of delivering the services needed into Sutton is curtailed significantly.
- (h) ESB Telecoms Ltd. in pursuit of alternative sites compliant with the needs of the radio engineers at Three and Meteor, actively engaged with representatives of both Suttonians Rugby Club and Sutton Golf Club. Land use conflicts and technical constraints ruled these alternative possibilities out.
- (i) Emphasise that proximity of land options to existing schools throughout the area, is severely impacting on the availability of alternative sites. The ESB point out that in the recent Draft

Fingal Development Plan 2017-2023, the 200m exclusion zone, has been removed.

- (j) In respect of the 200m exclusion zones around schools, point out that the main body of research currently undertaken into threats of negative health impacts consequent from mobile phone usage, concentrates on the effects of the handset on the human body, rather than the distance of a person from the base station.

In this regard, clarify that the further a handset is located from a base station, the higher the emissions from that handset. This is because the phone requires more power to deliver the same call / text message or data stream. Accordingly argue for considerations of proximity to schools, to be discounted in the current instance.

- (k) Rather, argue that the Board affirm the ESB's view that the application site is suitable for telecommunications purposes, given the restrictions on other suitable, alternative sites.
- (l) Particularly, the proposed development is compliant with Section 4.3 of the DoEHLG's 1996 Telecommunications Guidelines.
- (m) Emphasise the need for the continued use of a telecommunications structure located at the ESB's Sutton Substation, is well established.
- (n) Conclude the following benefits for the local community would result, should planning permission be granted :
 - (i) continued 3G and 4G coverage to Three / O2 and Meteor customers in the area would be ensured;
 - (ii) a consolidation of telecoms structures at the Substation, from the existing two, to one only,
 - (iii) a reduction in overall height and scale to 18m, and
 - (iv) allowance for additional ESB mobile network operator customers to co-locate
- (o) The current application site is located within the area zoned for utility in the Development Plan, and is located approximately twice as far from the nearest houses as the previous co-located tower.

7. POLICY CONTEXT :

- (1) **Fingal Co. Development Plan (2011-2017) :**
Relevant provisions incl. –

Ch.9 Land Use Zoning :

9.6 Zoning Objectives, Vision & Use Classes :

Zoning Objective “GE” General Employment

Objective – to “provide opportunities for general enterprise and employment”.

Vision – “facilitate opportunities for compatible industry and general employment uses, logistics and warehousing activity in a good quality physical environment. General Employment areas should be highly accessible, well designed, permeable and legible”.

Use Classes related to Zoning Objective

Permitted in Principle incl. – ‘telecommunications structures’ and ‘utility installations’.

(see Map – Fingal Co. Dev. Plan 2011 Land Use Zoning Objectives).

Ch.4 Physical Infrastructure :

4.4 Information and Communication Technologies (ICT) :

Telecommunications Antennae and Support Structures :

- emphasise the need for high quality communications and information technology networks, in assuring competitiveness of the County’s economy, and its role in supporting regional and national development.
- The DoEHLG’s ‘Telecommunications, Antennae and Support Structures, Guidelines for Planning

Authorities – 1996’, enables guidance to Planning Authorities on this matter.

- However, the advantages of a high quality ICT infrastructure, must be balanced against the need to safeguard the rural and urban environment.
- Visual impact must therefore be kept to a minimum, with detailed consideration of siting, external appearance, and the utilisation of landscaping measures effectively.
- **Objectives IT04 – IT11**, give focus to the sustainable development management of telecommunications antennae and support structures. A copy of the detailed provisions of these Development Plan 2011 Objectives is attached.

(2) **National Policy – D.o.E.’s Telecommunications, Antennae and Support Structures (Guidelines for Planning Authorities - 1996):**

The Guidelines provide relevant technical information in relation to installations, and offer guidance on planning issues so that environmental impact is minimised and a consistent approach is adopted by Planning Authorities. These Guidelines require that Operators take cognisance of the Guidelines.

Chapt.4 **Dev. Control and Telecommunications**

Includes guidance for pre-planning discussions, design and siting, visual impact, access roads and poles, sharing facilities and clustering, health and safety aspects, obsolete structures and temporary permissions.

4.2 **Design & Siting**

- Design of support structures, and to a great extent of the antennae and other “dishes” will be dictated by radio and engineering parameters.
- Location will be substantially influenced by radio engineering factors
- In trying to achieve a balance, consideration of the following additional issues are relevant.

4.3 **Visual Impact**

- Stressed as among the most important considerations;
- Generally, applicants have limited locational flexibility, given the constraints arising from radio planning parameters.
- Visual impact will, by definition, vary with the general visual context of the proposed development.
- Great care will have to be taken when dealing with fragile or sensitive landscapes;
- In spite of best precautions, some masts remain noticeable. In such a case, attention to local factors is necessary, in concluding whether a mast is noticeable or intrusive. These include :
 - intermediate objects (buildings or trees).
 - topography
 - scale of the object in the wider landscape
 - the multiplicity of other objects in the wider panorama
 - position of the object with respect to the skyline
 - weather
 - lighting conditions.
- Emphasise principle of co-location / mast sharing and clustering;
- Within city suburbs :
 - preferred location is in industrial estates, or industrially zoned lands.
 - ESB Substations may be suitable for the location of antennae support structures.
- As a last resort, free standing masts may be located in a residential area, or beside schools. In this regard, sites already developed for utilities should be considered, and masts / antennae designed and adapted for the specific location.

- Support structure should be kept to minimum height consistent with effective operation, and should be monopole.

4.4 **Access Roads & Poles**

Can cause greater visual impact than installation itself;

4.5 **Sharing Facilities & Clustering**

- All applicants encouraged to share. Demonstration by applicants, of a reasonable effort to share, is expected.
- Where sharing mast not possible, applicant's encouraged to co-locate on a site;
- support structures used by emergency or other essential services are not suitable for sharing with public mobile telephone services.

(3) **DoEHLG Circular Letter PL07/12 :**

DoEHLG Circular Letter PL07/12 enabled revision of the 1996 Guidelines as follows :

- Planning Authorities advised to cease attaching temporary permissions with regard to telecommunications masts and antennae. Rather, Planning Authorities are to determine applications on merit, with no time limit attached to the permission.
- Planning Authorities to not include separation distances in Development Plans, as these can inadvertently have a major impact on the roll out of a viable and effective telecommunications network.
- The lodgement of a bond or cash deposit is no longer appropriate.
- In co-operation with operators, Planning Authorities should create a register of approved telecommunications structures in their areas.
- Health and Safety issues are regulated by other Codes, and should not be additionally regulated by the planning process.

8. ASSESSMENT :

- (1) I have examined the file and the planning history, considered the prevailing local and national policies, physically inspected the application site and assessed the proposal and all of the submissions. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. I note at the outset the reference to material contravention in the planning authority's reasons for refusal. The application site is, however, zoned for 'General Employment' uses, and within which Telecommunications Structures are permitted in principle. Further, having regard to the Guidelines relating to Telecommunications Antennae and Support Structures, issued by the Department of the Environment, Heritage and Local Government to planning authorities in July, 1996, I am inclined to the view that, by virtue of Section 37(2)(b)(iii) of the Planning and Development Act, 2000, the Board would not be constrained in granting permission for the proposed development. Therefore, I do not consider the proposed development can be reasonably considered to constitute a material contravention of the Fingal County Development Plan 2011 under such circumstances.

I believe that the relevant planning issues in review of the merits of this appeal relate to :

- (a) Planning history of the ESB's 38kV Sutton Substation Compound
 - (b) Principle and location of the proposed development
 - (c) Objective IT09 : Alternative Site Investigation – Co-Location / Clustering
 - (d) Objective IT06 and Visual Amenity Impact
 - (e) General Services and Infrastructural provision
 - (f) Health and Safety Issues
 - (g) Appropriate Assessment.
- (2) **Planning history of the ESB's 38kV Sutton Substation :**
A detailed understanding of the planning history of telecommunications land use at the ESB's 38 kV Sutton substation compound, is established at paragraphs 3. and 5(1) above. The consequence of this planning history to date, was the construction of two telecommunications support structures, with associated antennae and dishes, located at opposite corners of the ESB compound, which now exist without planning permission, and which are understood to be

currently under Planning Authority enforcement proceedings (see paragraph 3(3) above).

This history commenced with the permission granted in 1998 under **F98A/0353**, to Esat Digifone, for a 18m monopole support structure located on the current application site. Over the past nearly 20 years, this structure has passed into the ownership of O2, and now Three Ireland. Consistent with the cycles of retention permission and continued usage, the last retention permission granted for this monopole support structure was in 2010 under **F09A/0605** and **PL06F.236084**, to O2 Ireland Ltd. I note the clarification made by O2 / Three Ireland, as clients to ESB Telecoms Ltd., the applicant in the current instance, that their planning permission for their monopole was subsequently allowed to lapse, because the monopole has proven to be structurally unsuitable for maintaining modern 3G and 4G equipment in the first instance, and also that it cannot support the co-location of multiple network operators, in compliance with public policy. Further, Three Ireland, as the new owners, have clarified as part of their ancillary submissions in support of the current consolidated application by ESB Telecoms Ltd., that prior to that permission lapsing, their plan was to therefore relocate all their O2 assets and equipment onto the existing ESB telecommunications support structure, located at the opposite north-western corner of the ESB compound, but which was then subsequently refused retention permission / continued usage in September 2015, under **F15A/0128** and **PL06F.244994**.

This second ESB Telecoms Ltd. owned telecommunications support structure was originally granted planning permission in 2004 under **F04A/1070**, understood in response to the acute need for multi-operator telecommunications infrastructure in this local area. Noteworthy, is that subsequent to this original permission granted in 2004, the western area of the ESB's Substation compound, inclusive of the **F04A/1070** application site, was rezoned to RS – residential zoning objective, in the new Fingal County Development Plan 2005-2011. Consistent with the cycles of retention permission and continued usage, the last retention permission granted for this monopole support structure was in May 2010 under **F09A/0525** and **PL06F.235546**, to ESB Telecoms Ltd. Noteworthy regarding this permission granted on first party appeal, was the Board's weighted reference to national policy in relation to telecommunications masts and antennae. Further, the now completed Dargans Way residential development, had not

commenced, in accordance with the RS zoning objective. Rather, at that time, the existing built environment to the west comprised a rundown small paint factory complex, understood covered by the historic GE zoning objective.

Further planning permission for the continued use of the ESB monopole, and new planning permission for co-location of a third mobile network operator telecommunications equipment (ie. the relocation of the O2 telecoms assets and equipment from the other existing monopole), was refused in September 2015, under **F15A/0128** and **PL06F.244994**. The Planning Authority's refusal decision at that time was sustained by the Board on first party appeal under **PL06F.244994**, for two refusal reasons. These were proximity to the newly completed Dargans Way housing development, located to the west of the site, which had not been insitu five years previously, and consequently, specific reference to the RS residential zoning objective, under which the ESB site had been re-designated in the Fingal County Development Plan 2005-2011, since 2005.

The outcome clearly, from the above chronology, is that each of the existing two monopoles now exist without planning permission, and which are understood to be currently under Planning Authority enforcement proceedings.

At present I understand that the telecommunications assets of two national mobile network operators, Three Ireland and Meteor, co-exist on the ESB monopole, and that the same assets of O2 Ireland Ltd., now Three Ireland, alone, exists on the other, older and substandard monopole.

Logically contextualised against the above planning history, the ESB Telecoms Ltd. proposed erection of a new 18m high monopole telecommunications structure, carrying antennae and communications dishes, with ancillary development and works, will facilitate a consolidation of the existing Three Ireland, O2 / Three Ireland and Meteor assets and equipment, currently located on both of the now unauthorised two monopoles. This application site is the same red lined area within which the O2 Ireland Ltd. monopole was originally granted planning permission under **F98A/0353**, nearly 20years ago. The necessary telecommunications equipment to be housed on the single new 18m monopole, consists of nine antennae and six dishes.

Consistent with the planning history, ESB Telecoms Ltd. rents the monopole space to each of its mobile network operator customers, who then operate their respective mobile phone and broadband network services.

(3) **Principle and location of the proposed development :**

I have had careful regard to the comprehensive and technically substantive arguments submitted by the applicant – ESB Telecoms Ltd., and supplemented by further submissions in support of the proposed development by Three Ireland (including O2 Ireland) and Meteor. I am satisfied that the planning principle of the proposed telecommunications development, located within the ESB 38kV Sutton Substation, has been satisfactorily established, and that in the ‘public interest’ the proposed development, as part of the consolidation and sustained maintenance of the national mobile network infrastructure and broadband services, is a project of strategic national importance.

The PA clearly in its considerations, do not dispute this strategic national significance. Further, I am generally satisfied as to the location of the proposed development within the ESB Sutton Substation, alongside other utilities, and with the Dublin Bay Scheme sewerage pumping station adjacent to the east, and notwithstanding its proximity to established residential neighbourhoods.

Clearly zoned “GE – General Employment”, the applicable zoning matrix designates ‘telecommunications structures’ and ‘utility installations’ as being ‘permitted in principle’ within the GE zone. I do not believe that any of the PA, 3rd Party or 1st Party interests contest this principle. In terms of the applicable GE zoning objective, and supplemented by the GE – Vision, the primary consideration is to “facilitate opportunities for compatible industry and general employment uses, logistics and warehousing activity in a good quality physical environment. General Employment areas should be highly accessible, well designed, permeable and legible”. Whilst clearly not directly employment generating in this instance, an appropriate clustering of compatible telecommunications and public utility land use is already achieved in this locality, in accordance with the GE zoning objective. Having inspected the application site, in context, inclusive of proximity to residential neighbourhoods, I am satisfied the existing built form and associated character resembles the accessible, well designed, permeable and legible precinct envisaged under the GE

zoning objective. In my view, it is in particular respect of both visual and pedestrian accessibility, permeability and legibility, that the GE zoning objective is achieved.

In the context of the proposed ESB telecommunications development, further qualification is enabled at Section 4.4 – “Telecommunications Antennae and Support Structures”, of the Fingal County Development Plan 2011, which emphasises the need for high quality communications and information technology networks, in assuring competitiveness of the County’s economy, and its strategic role in supporting regional and national development. However, further emphasis is made that the advantages of a high quality information and communication technologies infrastructure, must be balanced against the need to safeguard the suburban environment, in this instance. In this regard, visual impact must be minimised, with detailed consideration of siting, external appearance, and the utilisation of landscaping measures effectively. The Development Plan 2011 Objectives IT04 – IT11, give focus to the sustainable development management of telecommunications antennae and support structures.

It is in this regard that the proposed ESB telecommunications structure, in itself, is challenged and requires further consideration. Understandably, this is a weighted concern for the attention of the Planning Authority and the 3rd party objectors and observers, resident locally.

Having regard to the discussions below, I believe that the proposed ESB telecommunications structure is sufficiently compliant with these Fingal Co. Dev. Plan 2011 policies and objectives, together with relevant national planning policy, and as proposed, would be in accordance with the proper planning and sustainable development of the area.

(4) **Objective IT09: Alternative Site Investigation – Co-Location / Clustering :**

Section 4.5 “Sharing Facilities and Clustering” in the DoEHLG’s Guidelines 1996 recommends that existing masts should be shared rather than new masts constructed, and that the sharing of installations (antennae support structures) will normally reduce the visual impact on the landscape. These provisions are underscored at Section 4.4 “Telecommunications Antennae and Support Structures”, and

associated policies and objectives of the Fingal County Development Plan 2011.

I note the commitment expressed by ESB Telecoms Ltd., as applicant, to subscribe to these policy guidelines advocating co-location particularly. Having careful regard to the comprehensive and technically substantive arguments submitted by ESB Telecoms Ltd. as part of the original planning application documentation, the appeal submission, and supplemented by the individual arguments in favour of the proposed development by the national mobile network operators – Three Ireland, O2 Ireland Ltd. / Three Ireland and Meteor, as the existing clients of ESB Telecoms Ltd., and all currently co-located and clustered at the ESB 38kV Sutton substation compound, I believe that a sufficient and reasonable argument establishing the need for development purposes, has been made as to why co-location and further clustering at other existing off-site locations within the surrounding Baldoyle / Sutton area is both not practical, or technically feasible.

Consequently therefore, I do not share the Planning Authority's conclusion that overall, the applicant has not adequately determined the feasibility of co-locating the proposed new monopole at an alternative suitable location, both by way of available existing base stations locally, as well as the identification of new alternative sites, and which would result in less adverse effects on in-situ local residential neighbourhoods particularly. Rather, I am satisfied that ESB Telecoms Ltd. have been proactive in assessing suitable, existing alternative support structures / base stations and sites locally, and specifically taking into account the mobile network needs of the ESB's existing Sutton Substation clients – Three Ireland, O2 Ireland Ltd. / Three Ireland and Meteor.

Specifically, I note that consistent with concern expressed by 3rd party objectors and observers, the Planning Authority point out that two other telecoms support structures / base stations exist locally at the Baldoyle Industrial Estate and the Sutton cross roads shopping centre, both within 1km of the ESB substation compound. Whilst these were indicated spatially by the applicant as required under Objective IT09, the Planning Authority specifically argue that the applicant has not submitted any details in relation to "the feasibility of utilising these sites to cater for the needs of Three Ireland". Whilst the only specific

argument in this regard by the Planning Authority, in its assessment, I note and accept as reasonable and logical the applicants substantive motivation, that whilst these other base stations exist in the area, these locations already serve specific areas within the established cellular network, and cannot be easily adapted to cover the black spot of coverage that will be created locally, should the proposed ESB development at its Sutton utility compound be refused planning permission. I note that a local population of over 1200 residents, inclusive of the residents of 'Dargan's Way' and 'Binn Eadair Crescent', would be affected, consequent of such a mobile coverage black spot. I further note the technical confirmation made that due to the lack of existing telecoms infrastructure locally, the mobile networks are stretched as it is at present, in an environment of increasing user demands at higher technical specs, with consequent operational difficulties particularly at peak periods.

In this context, I further reference as relevant, the applicant's arguments regarding the necessity to grow and sustain an increasingly dense network of telecommunication infrastructure as a consequence of public user demand for 3G and 4G mobile networks across urban and suburban areas, such as at Sutton. This places a significant demand pressure on the national mobile network operators particularly, to provide supporting infrastructure to cater for and sustain such demand. Certainly, this is enabled through overall national policy, which seeks to provide and improve the network of mobile telecommunication infrastructure throughout the country.

Whereas the Planning Authority appear to indicate their understanding of the applicant's motivation as one of strategic convenience, primarily wanting to sustain their longstanding telecoms presence at their Sutton 38kV substation compound, I rather accept that whilst the applicant certainly concludes in favour of sustained co-location by their existing three client mobile network operators at the ESB utilities compound, this conclusion was achieved consequent of reasonable investment in finding the optimum location for the new telecommunications monopole, in accordance with both cellular network technical and statutory planning requirements. In compliance with all of national, regional and local policy guidance, I believe the applicant has sufficiently demonstrated reasonable effort in this regard. I do not share what appears as the Planning Authority's circumspect approach in this regard. Rather, having regard to substantive motivational

documentation submitted by ESB Telecoms Ltd. I affirm the advocacy made by the ESB that the current application site has been satisfactorily demonstrated as suitable for telecommunications purposes, given the restrictions and constraints associated with other existing potentially suitable, alternative sites and structures.

Further, I advocate the view, not clearly apparent by the Planning Authority, that whereas the Planning Authority appears to expect of all applications for telecommunications infrastructure, that applicants' submit documentary evidence clearly demonstrating the reasons why it is not feasible to share existing facilities, bearing in mind both Objective IT09 of the Development Plan 2011, and the Code of Practice on sharing radio sites issued by the Commission for Communications Regulation, this approach is not entirely reasonable in the current instance and having detailed regard to the nearly 20 year planning history of operational telecommunications network infrastructure, located at the ESB's 38kV substation compound at Sutton. In fact, I am rather inclined to the view that this approach by the Planning Authority, is not pertinent in the current case.

Logically contextualised against the planning history of the ESB compound at 8(2) above, the ESB Telecoms Ltd. proposed erection of a new 18m high monopole telecommunications structure, carrying nine antennae and six communications dishes, with ancillary development and works, will enable a consolidation, by way of co-location of the existing Three Ireland, O2 / Three Ireland and Meteor assets and equipment, currently located on both of the now unauthorised two monopoles. This new application site coincides with the comparable red lined area within which the O2 Ireland Ltd. monopole was originally granted planning permission under **F98A/0353**, nearly 20years ago. In itself, I believe the proposed development, inclusive of the expressed commitment by three national mobile network operators' to co-locate going forward, on the proposed new monopole, clearly demonstrates compliance with both Objective IT09 and the Code of Practice on Sharing Radio Sites. On the information available, this commitment to co-location does not appear to have been clearly comprehended by the Planning Authority, who appear to have singularly referenced Three Ireland's telecommunications assets for accommodation on the proposed development.

Therefore, having regard to both the planning history of co-location (Three Ireland and Meteor) and clustering (O2 Ireland Ltd. / Three Ireland) at the ESB compound, and the consequent proposed new ESB telecoms monopole enabling a consolidation, by way of co-location of the existing three client mobile network operators assets and equipment, I believe it would be inappropriate and disproportionate to refuse planning permission on the grounds that the applicant has failed to demonstrate compliance with the Telecommunications Antennae and Support Services – Guidelines for Planning Authorities (July 1996) and the Code of Practice on Sharing of Radio Sites, as required by Objective IT09 of the Fingal County Development Plan 2011. In this regard, as motivated at paragraph 8(1) above, I do not share the Planning Authority’s expressed conviction articulated within its Refusal Reason No.2, that the proposed development materially contravenes Objective IT09. Rather, I believe that Refusal Reason No.2 would stand up to greater scrutiny if the proposed new ESB monopole was to be monopolised by one mobile network operator. This is not the case.

Accordingly, I conclude the view that Planning Authority’s Refusal Reason No.2, cannot be sustained.

(5) **Objective IT06 and Visual Amenity Impact :**

The Planning Authority assert in their Refusal Reason No.1 for the proposed 18m high telecommunications monopole development that due to its height, design and close proximity to adjoining residential dwellings, the proposed monopole would be overbearing and visually intrusive when viewed from surrounding residential properties. Accordingly therefore, the proposed new monopole would not be compliant with Objective IT06 of the Fingal County Development Plan 2011.

Section 4.4 “Telecommunications Antennae and Support Structures” of the Development Plan 2011, emphasises the need for high quality communications and information technology networks, in assuring competitiveness of the County’s economy, and its strategic role supporting regional and national development. However, qualification is made that the advantages of a high quality ICT infrastructure must be balanced against the need to safeguard the suburban environment in the current instance. Specific attention is drawn to visual impact, which must be kept to a minimum, with detailed consideration of siting, external appearance, and the utilisation of landscaping measures

effectively. Objectives IT04 – IT11, give focus to the sustainable development management of telecommunications antennae and support structures. Visual Impact is also stressed as among the most important considerations at Section 4.3 of the DoEHLG's 1996 Guidelines regarding telecommunications antennae and support structures

I note that the Planning Authority's wording of Refusal Reason No.1 stated under the current application **F16A/0016**, is generally the same as the Refusal Reason No.1 given by the Planning Authority previously under application **F15A/0128**, and the single refusal reason given by the Board on appeal under **PL06F.244994**.

However, clearly in my view, two materially different applications are being considered, on two different application sites. Having regard to the need for meaningful mitigation of both perceived and actual negative visual amenity impact in accordance with planning policy, I note and acknowledge that in the current application, the applicant has demonstrated commitment to directly mitigating visual impact by way of:

- the reduction of the number of masts within the ESB substation compound from the two existing, to one going forward (and dependent on the Board now being mindful to grant planning permission in the current instance), and sufficient in order to strategically sustain the cellular network coverage and services in the local Baldoyle and Sutton area, of the three existing client national mobile network operators – Three Ireland, O2 / Three Ireland and Meteor,
- the maximisation of the separation distance of the proposed new monopole, from the nearest houses at Dargan Way, to nearly 50m. Whereas, the existing now unauthorised ESB 20m high monopole is c.23m from the nearest newly completed house, the new monopole will be located c. 47m away. Effectively, a doubling of the separation distance has been achieved,
- the reduction in height and scale of the monopole from 20m high, to 18m, with a more slender proportion, whilst ensuring that telecommunications services are technically sustainable, and
- to as far as is reasonably and practically possible, the appropriate boundary treatment / screen planting and

associated landscaping of both the application site itself, together with the ESB Substation Compound.

Having regard to the fact that telecommunications masts have been a sustained element of the local built environment for nearly 20 years, significantly pre-dating the recent completion of construction of the Dargan's Way residential estate, and that telecommunications masts are permitted in principle on GE zoned lands such as the application site, I believe that consequent of the meaningful mitigation offered by the ESB Telecoms Ltd. in the design and location of the proposed single new telecommunications monopole within its substation compound, no serious negative impact or disproportionate influence on the character and quality of the contextual residential amenity currently enjoyed, would result. In fact rather, with the reduction in the number of monopoles from the de facto existing two, to one single, shorter, slender monopole, separated twice as far from the nearest Dargan Way house as was refused planning permission under **F15A/0128** and **PL06F.244994**, I believe an net improvement to local amenity will result from the proposed development, whilst sustaining the strategic mobile cellular network.

Accordingly, I conclude the opinion that the Planning Authority's Refusal Reason No.1 cannot be sustained.

(6) **General Services and Infrastructural provision :**

Having regard to the nature and specificity of purpose of the proposed development, and all the information available, the observations made at the time of my physical inspection, the relevant provisions of the DoEHLG's 1996 Guidelines and of the Fingal County Development Plan 2011, together with the Fingal County Council Departmental technical reports received, I am satisfied that subject to adequate regular mitigation, monitoring and management, as generally Conditioned as standard by the relevant Planning Authority, adequate services are available to the proposed development, that no obvious serious threat to public and environmental health exists, and that the proposed development would be in accordance with the proper planning and sustainable development of the area.

(7) **Health and Safety Issues :**

Public Health and Safety is a concern of 3rd Parties. On the information available, the Board has consistently taken the view that there is no

conclusive evidence of adverse health effects from telecommunications / mobile phone masts.

The DoEHLG 'Telecommunications, Antennae and Support Structures – Guidelines for Planning Authorities', 1996, provide guidance on the matter, stating that as part of the licensing framework, Operators are required to comply with the relevant international standards in relation to emissions of non-ionising radiation from telecommunications antennae. The International Commission on Non-Ionizing Radiation Protection (ICNIRP) is an independent scientific body, which has produced an international set of guidelines for public exposure to radio frequency waves.

The applicant has included a Health and Safety compliance report, dated January 2016, with the original application documentation. This included report an Initial Survey, a Full Survey – Broadband Measurements, and another Full Survey – Frequency Selective Measurements. The overall conclusions were that both “Frequency Selective Measurements”, and the “Total Exposure Quotient” were below, and therefore compliant with ICNIRP Limits.

DoEHLG Circular Letter PL07/12, 19/10/2012, reiterates the 1996 advice to Planning Authorities, not to determine planning applications on health grounds. Circular Letter PL07/12 further states that Planning Authorities should be primarily concerned with the appropriate location and design of telecommunications structures, and that they do not have competence for health and safety matters in respect of telecommunications infrastructure. Rather, health and safety matters are regulated by other codes and should not be additionally regulated by the planning process.

Accordingly, having regard to the above, I consider that it would not be appropriate to refuse permission for the proposed development, on the grounds of health and safety issues.

(8) **Appropriate Assessment :**

Having regard to the nature and scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed

development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9. RECOMMENDATION :

Having regard to all of the above, I recommend that permission be GRANTED in accordance with the following Schedules.

REASONS AND CONSIDERATIONS

Having regard to :

- (1) the national strategy regarding the improvement of mobile communications services,
- (2) the guidelines relating to telecommunications antennae and support structures which were issued by the Department of the Environment and Local Government to planning authorities in July, 1996,
- (3) the location of the development within :
a zoned 'GE' site, wherein telecommunications masts are permitted in principle, and
an existing public utilities site,
- (4) the existing pattern of development in the vicinity, and
- (5) the planning history of the site, in particular the previous planning permissions sustaining co-location of national mobile network operators,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously, or disproportionately, injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

I note the planning authority's decision to refuse planning permission because it considered that the proposed development would constitute a material contravention of the Development Plan 2011. However, having regard to the Guidelines relating to Telecommunications Antennae and Support Structures, issued by the Department of the Environment, Heritage and Local Government to planning authorities in July, 1996, I am inclined to the view that, by virtue of Section 37(2)(b)(iii) of the Planning and Development Act, 2000, the Board would not be constrained in granting permission for the proposed development.

CONDITIONS

- (1) The development shall be carried out in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity, and that effective control be maintained.

- (2) The site shall be reinstated on removal of the telecommunications structure and ancillary structures. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority at least one month before the date of expiry of this permission.

Reason: To enable the impact of the development to be re-assessed, having regard to changes in technology and design during the specified period.

- (3) The transmitter power output, antenna type and mounting configuration shall be in accordance with the details submitted with this application and, notwithstanding the provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, shall not be altered without a prior grant of planning permission.

Reason: To clarify the nature and extent of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations.

- (4) Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.

Reason: In the interest of public health.

- (5) A low intensity fixed red obstacle light shall be fitted as close to the top of the mast as practicable and shall be visible from all angles in azimuth. Details of this light, its location and period of operation shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public safety.

- (6) Details of the proposed colour scheme for the telecommunications structure, ancillary structures and boundary fencing shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

- (7) Landscaping of the site shall be carried out in accordance with a landscaping scheme, which shall include hedging planted inside the boundary fence, which shall be submitted to and agreed in writing with planning authority prior to commencement of development.

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

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

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

Leslie Howard
Planning Inspector
21/07/2016