



An
Bord
Pleanála

Inspector's Report

ABP-304433-19

Development	Permission to construct a 20m monopole type telecommunications support and all associated site works
Location	Malahide Yacht Club, Sea Road, Malahide, Co Dublin
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F19A/0087
Applicant(s)	Signal Infrastructure Ltd.
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Signal Infrastructure Ltd.
Observer(s)	Paul Egan Noel & Carmel Mahon Paul & Caitriona Nevin
Date of Site Inspection	8 th of August 2019
Inspector	Angela Brereton

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	5
3.3. Other Technical Reports	6
3.4. Third Party Observations	7
4.0 Planning History.....	7
5.0 Policy Context.....	8
5.1. National Policy	8
5.2. Fingal Development Plan 2017-2023	8
5.3. Natural Heritage Designations	11
5.4. EIA Screening	11
6.0 The Appeal	11
6.1. Grounds of Appeal	11
6.2. Planning Authority Response	13
6.3. Observations	14
7.0 Assessment.....	17
7.1. Principle of Development and Planning Policy	17
7.2. Technical Justification and Rationale for the Proposal.....	18
7.3. Investigation of Alternatives	19
7.4. Design and Layout	21
7.5. Impact on the Character of the Area	22

7.6. Landscape & Visual Impact Assessment	23
7.7. Access	25
7.8. Regard to Material Contravention	26
7.9. Health and Safety.....	28
7.10. Screening for Appropriate Assessment.....	28
8.0 Recommendation.....	31
9.0 Reasons and Considerations.....	32

1.0 Site Location and Description

- 1.1. The application site is c.1.5km west of Malahide Village. It is located at the eastern Sea Road side of Malahide Yacht Club, Broadmeadow, proximate to the junction with Caves Strand road with frontage to the estuary and to the jetty and is visible from the coast. There are open views of the coastal and marine environment of Malahide and Donabate to the North with landscaped open spaces fronting onto the estuary. Some screening is provided by deciduous trees to the east of the site.
- 1.2. The Yacht Club is within a rectangular 0.5ha site comprising a 2 storey flat roofed clubhouse centrally positioned within its grounds and enclosed within a 2.4m palisade fence enclosure. The premises contains a number of shipping containers/storage buildings and sailing boats of various sizes. An existing antenna support structure is positioned on the western corner of the premises designed to appear as a sail mast of approx.17m in height.
- 1.3. The entrance to the Yacht Club is via Sea Road close to the junction with Caves Strand Road. There is an unmarked area used for car parking in the field close to the entrance. Visibility to the north is somewhat restricted by the bend in the road. However, the site is within the 50km/h speed limit. There is parkland on the opposite side of the road to the east. There is a school further to the south of this parkland.

2.0 Proposed Development

- 2.1. Permission is sought to construct a 20m monopole type telecommunications support structure enclosed within a 2.4m high palisade fenced compound together with associated ground equipment cabinets and associated site works at the Malahide Yacht Club.
- 2.2. A letter of consent for the application has been submitted by the Yacht Club.
- 2.3. A Planning Report has been submitted by Signal Infrastructure Ltd which includes a rationale for the proposed development.
- 2.4. Drawings including a Visual Assessment have been submitted.

3.0 Planning Authority Decision

3.1. Decision

On the 17th of April 2019 Fingal County Council refused permission for the proposed development for the following reason:

The subject site is zoned under Objective HA-High Amenity within the Fingal Development Plan 2017-2023 and there is an objective along Malahide Estuary to protect views. The design of the mast, its siting and close proximity to views which are protected would not be appropriate at this location. The location of the proposed mast in a highly sensitive area which also has protected views would give rise to undue levels of negative impact upon the visual amenity of the surround area, and would be contrary to objective NH35, NH36, NH38, NH40, NH62 and NH52 regarding protection of the high amenity area and objective IT07, IT08 and DMS144 of the Fingal Development Plan 2017-2023 regarding appropriate location of telecommunication masts and is therefore contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report had regard to the locational context of the site, planning history and policy, to the submissions made and the departmental reports. Their Assessment included the following:

- The subject site is located in an area zoned high amenity area in the Fingal DP 2017-2023.
- Views and prospects along the front of the Yacht Club, to the north of the subject site, are identified as protected.
- It is also within the Ecological Buffer Zone and the site is located immediately adjacent to the Malahide Estuary. This is identified as an SAC, SPA and NHA in the Fingal DP.

- They note a number of relevant objectives and policies in the Fingal DP and have regard to Telecommunications Guidelines.
- They consider that the proposed siting of the mast would give rise to a negative impact on protected views.
- They note the need for the mast but are concerned that it is located in a sensitive landscape alongside Malahide Estuary.
- They consider that the design of the mast, its siting and close proximity to protected views would not be appropriate in this high amenity location and would be contrary to planning policy.
- The subject mast is shown in a more prominent location than the Boat Mast which integrates well into the boat yard.
- They note the AA Screening Report submitted and consider that the proposed development will not have an impact on qualifying interests and conservation objectives for Natura 2000 sites and that the integrity of these sites will not be affected.
- They have regard to the visual impact assessment submitted and consider that the proposal would have an undue negative effect on this High Amenity area contrary to planning policy and objectives and recommend that permission be refused.

3.3. Other Technical Reports

Transportation Section

They note the infrequent use of the existing access, the lack of need for additional parking and do not object to the proposed development.

Water Services Department

They have no objection.

Parks Department

They consider that the proposal will be visually obtrusive against the skyline and natural setting of Malahide estuary and recommend that this application be refused.

3.4. **Third Party Observations**

Regard is had to the number of submissions received from local residents. As these concerns are similar to those raised in the Observations made they are considered further in this context and in the Assessment below.

4.0 **Planning History**

The Planner's Report has regard to the extensive planning history of the site relative to retention of the existing 17m monopole (bespoke boat house mast design) telecommunications support structure on the western side of the Yacht Club buildings. This includes in summary:

- Reg. Ref. F16A/0403 – Retention permission granted to retain the 17m monopole structure (previously granted an extension of temporary permission under Reg.Ref. F10A/0356) carrying antennas and link dishes together with associated equipment cabinets and fencing at Malahide Yacht Club, for a temporary period of five years.
- Reg.Ref. F10A/0356 – Retention permission granted for a 17m monopole structure (previously granted under Reg.Ref. F04A/1391 (PL06F.210106) for a temporary period of five years.
- Reg.Ref. F04A/1391 - PL06F.210106 – Permission refused by Council and subsequently granted by the Board to erect the 17m monopole mast (Boat Mast Design) containing 3no. antennae, 1 no. dishes; associated equipment, outdoor cabinets and fencing for a new 3G broadband network at Malahide Yacht Club. Condition no. 1 of the Board's permission restricted the grant to a temporary period of five years from the date of the order.

5.0 Policy Context

5.1. National Policy

The aim of the “Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996” is to offer general guidance on planning issues so that the environmental impact is minimised, and a consistent approach is adopted by the various planning authorities. Section 4.3 seeks to minimise visual impact and requests that great care be taken when dealing with *fragile or sensitive landscapes* and only as a last resort where no alternatives are available should free standing masts be located in a residential area or near schools.

Circular Letter PL 07/12, issued in October 2012 by the Minister for the Environment, Community and Local Government under section 28 of the Planning and Development Acts 2000-2012, updated certain sections of the Guidelines and states in Section 2.2, inter alia:

“Planning authorities are therefore advised that from the date of this Circular Letter, attaching a condition to a permission for telecommunication masts and antennae which limit their life to a set temporary period should cease. Where a renewal of a previously temporary permission is being considered, the planning authority should determine the application on its merits with no time limit being attached to the permission. Only in exceptional circumstances where particular site or environmental conditions apply, should a permission issue with conditions limiting their life.”

5.2. Fingal Development Plan 2017-2023

Telecommunications Antennae and Support Structures

The Council recognises the essential need for high quality communications and information technology networks in assuring the competitiveness of the County’s economy and its role in supporting regional and national development.

Section 7.4 refers. Objectives IT05 – IT08 relate.

Objective IT07: *Require best practice in siting and design in relation to the erection of communication antennae.*

Objective IT08: *Secure a high quality of design of masts, towers and antennae and other such infrastructure in the interests of visual amenity and the protection of sensitive landscapes, subject to radio and engineering parameters.*

Other objectives relating to telecommunications development are contained in Chapter 12 - Development Management. Telecommunications Antennae and Support Structures. Objectives DMS 143 – 145 refer to provision for co-location, appropriate siting and criteria to demonstrate compliance with *The Telecommunications Antennae and Support Structures -Guidelines for Planning Authorities.*

Objective DMS144 seeks to - *Encourage the location of telecommunications based services at appropriate locations within the County, subject to environmental considerations and avoid the location of structures in fragile landscapes, in nature conservation areas, in highly sensitive landscapes and where views are to be preserved.*

Land use zoning

As shown on Sheet 9 - Malahide/Portmarnock, the site is within the HA -High Amenity zoning where the objective is to: *Protect and enhance high amenity areas.*

A High Amenity zoning (HA) has been applied to areas of the County of high landscape value. These are areas which consist of landscapes of special character in which inappropriate development would contribute to a significant diminution of landscape value in the County. These landscape areas meet one or more of a number of stated criteria including: Act as a backdrop to important coastal views.

Objectives NH51 and NH52 seek to protect such areas from inappropriate development.

There is a specific objective to preserve views along the coastline that includes this location. There is an Indicative Cycle/Pedestrian Route to the east of the site. The site is north of the Development Boundary for Malahide.

Malahide

Chapter 4 refers to Urban Fingal and includes a Section on Malahide. Objective Malahide 1 – 11 refer.

Objective Malahide 6 seeks to: *Facilitate the development of a pedestrian and cycle link between Malahide and the Donabate Peninsula as part of the Fingal Coastal Way, whilst avoiding any routing along the northern boundary of Malahide Inner Estuary by virtue of its ecological sensitivity.*

Landscape Character Assessment

Chapter 9 includes regard to Natural Heritage

Objective NH35: *Resist development such as houses, forestry, masts, extractive operations, landfills, caravan parks and large agricultural/horticulture units which would interfere with the character of highly sensitive areas or with a view or prospect of special amenity value, which it is necessary to preserve.*

Objective NH36: *Ensure that new development does not impinge in any significant way on the character, integrity and distinctiveness of highly sensitive areas and does not detract from the scenic value of the area. New development in highly sensitive areas shall not be permitted if it:*

- *Causes unacceptable visual harm*
- *Introduces incongruous landscape elements*
- *Causes the disturbance or loss of (i) landscape elements that contribute to local distinctiveness, (ii) historic elements that contribute significantly to landscape character and quality such as field or road patterns, (iii) vegetation which is a characteristic of that landscape type and (iv) the visual condition of landscape elements.*

Objective NH38: *Protect skylines and ridgelines from development.*

Objective NH40: *Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.*

Objective NH52: *Ensure that development reflects and reinforces the distinctiveness and sense of place of High Amenity areas, including the retention of important features or characteristics, taking into account the various elements which contribute to its distinctiveness such as geology and landform, habitats, scenic quality,*

settlement pattern, historic heritage, local vernacular heritage, land-use and tranquility.

The Coast

Section 9.5 refers and includes the following Objectives:

Objective NH59: Protect the special character of the coast by preventing inappropriate development along the coast, particularly on the seaward side of coastal roads. New development for which a coastal location is required shall, wherever possible, be accommodated within existing developed areas.

Objective NH62: Establish, within one year of the making of this Development Plan, a coastal monitoring programme to provide information on coastal erosion on an ongoing basis.

5.3. Natural Heritage Designations

The site is located adjacent to Malahide Estuary and to a number of Natura 2000 sites. These are discussed in the Screening for AA Section below.

5.4. EIA Screening

Having regard to nature of the development comprising a telecommunications structure and ancillary development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

CIGNAL Infrastructure Ltd have submitted a First Party Appeal relative to the Council's refusal of permission for the proposed development. Their grounds of appeal include the following:

- The Technical Justification provided by eir (the Operator) demonstrates that they require a new site in the area.
- Their investigation of alternatives shows that co-location is not possible on masts in the wider area.
- There is a significant coverage gap in the area which results in poor coverage.
- This proposal provides the best possible solution to provide a satisfactory level of service to the Malahide Area.
- They have regard to the existing telecommunications permitted on the premises – the 17m bespoke boat mast structure and note that this is unsuitable for colocation.
- The proposed structure provides the best option for the Operator eir in the area. There are no existing sites available for colocation in the area.
- They include details and revised drawings showing modifications to the design of the proposed structure. Photomontage images have also been submitted.
- The option of removing the shrouded enclosure reduces the width of the structure and provides the Board with a design alternative for consideration. The Board may wish to consider and condition these revisions to the design of the monopole structure.
- They have regard to the search area and note this proposal will allow for clustering of telecommunications masts in the search area.
- They consider that the proposal complies with planning policies and guidelines and provide a discussion of this relevant to the Telecommunications Guidelines and to the current policies and objectives in the Fingal CDP.
- The structure is designed to be a minimal height of 20m to meet the coverage objectives of the network for the surrounding area.

- Generally, a monopole structure while at 20m in height is less visually intrusive than a lattice structure as they bear a resemblance to utility poles that are often found in the landscape.
- They note the Landscape Character Assessment of the area as provided in the Fingal DP and that this is a highly sensitive site within the estuarine landscape with a distinctive character susceptible to small changes.
- A visual impact assessment with associated photomontage images has been included in the planning documentation for review.
- They include before and after images of viewpoints in a number of photomontages and a discussion of such, relative to impact on the sensitivity of the area.
- The impact on the amenities of the area is deemed to be within the acceptable limits taking into account the extent this service will deliver.
- Wireless enabled communication devices are placing an increased demand on available wireless infrastructure in the Malahide area and so the capacity on the eir network must be improved to meet customer expectations.
- The proposed development is in line with national, regional and local planning policy, actively assisting in achieving the aims and objectives of the Local Area Plan as well as the County DP by delivering improved telecommunication infrastructure services to the town. They request that the Board grant permission for the proposed development.

6.2. Planning Authority Response

Their response includes that having reviewed the First Party Appeal the Planning Authority remains of the opinion that the proposed 20m monopole would materially contravene the zoning objective and vision for the area which is to protect and enhance high amenity areas and the objectives set out within the Fingal DP 2017-2023 relating to telecommunications and natural heritage particularly objectives IT07, IT08 and DMS144 and objectives NH35, NH36, NH38, NH40, NH62 and NH52. While the appellant has demonstrated the need for such infrastructure within the

locality it is considered that a more appropriate less visible location needs to be identified.

They request the Board to uphold the decision of the PA and refuse permission for the subject application in accordance with the proper planning and development for the area. In the event, this appeal is successful the Board is requested to make provision in its determination for applying a financial contribution in accordance with the Council's Section 48 Development Contribution Scheme.

6.3. Observations

Three separate Observations have been received from the following local residents:

- Noel and Carmel Mahon
- Paul Egan
- Catriona and Paul Nevin

As their concerns raise many similar type issues, for convenience they are considered together under the following headings below:

Location and Setting

- This proposed mast is situated in an area of high sensitivity with protected views and would have a high level of negative impact on the visual area.
- The marsh lands on Sea Road are within an area of High Amenity with Preserved views and within an SAC.
- It would be located less than 30m from the water's edge of Malahide Estuary, a Natura 2000 site and 130m from a primary school, St. John Paul's NS.
- The proposed location is too close to the sea shore. The new drawings with this appeal show a new entrance from the proposed development, out on to the strand/shoreline, a public area.
- This is a historic part of Malahide that has not been explored.
- The shoreline at Malahide is not well developed – regard is had to the natural heritage of the area.

- The Council's approach to Green Infrastructure is one that seeks to conserve and enhance biodiversity and geological heritage and to promote the sustainable management of the landscape and coast.
- Concerns about Climate Change.

Procedural issues

- The Public Notices have not been adequately displayed and are now still in situ, despite the Council's refusal.

Design and Rationale

- The proposed 20m mast in this application would be a huge pole, with no design whatsoever and could never blend in with the natural beauty around it.
- The proposed redesign will be even more conspicuous in the surrounding area.
- They dispute that none of the existing 10 masts in the vicinity as presented in the documentation submitted would not be suitable for co-location.
- The note the existing mast at the Yacht Club has a 5 year temporary permission.

Visual Impact

- Negative visual impact on the scenery and natural beauty of its surrounds. The location is an ecological zone of great natural beauty.
- The visual impact of the mast would be very prominent in the skyline.
- The trees which provide some screening to the east could be removed.
- The proposed siting will have a detrimental impact on views for motorists.
- Photographs are included relative to the visual appearance of the mast from various view points in the area.

Planning Policy

- This area has both protected views and a National School, so the proposed siting would not be in accordance with the Telecommunications Guidelines.

- Fingal DP 2017-2023 requires best practice in relation to the erection of communication antennae.
- The proposal would not accord with planning policies and objectives. They refer in particular to Objectives NH35 and DMS145 relevant to the siting of masts.
- The proposal would be in material contravention of the zoning objective and planning policies and objectives as set out in the Council's reason for refusal.

Impact on Ecology and Natura 2000 sites

- The proposed site is in an SAC and High Amenity area and is subject to EU Directives on Flora and Fauna.
- The subject site has been identified as an ecological buffer zone in the Fingal DP 2017-2023.
- The subject site is within an NHA. It hosts a wide variety of birds, wildfowl and wildlife which live and breed in the area.
- They note that while an AA Screening report has been carried out, an EIA has not been submitted. The latter should have been carried out relative to this proposal on this site.

Health and Safety

- The proposal in view of its siting close to the road could impact adversely on traffic safety.
- In view of its location within the Yacht Club and its proximity to the National School and local residential it could impact adversely on health and safety.
- Regard is had to Safety, Health and Welfare at Work (Electromagnetic Fields) Regulations 2016 (A copy of this Report is included).

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. Regard is also had to the DoECLG Circular Letter: PL07/12 which updates certain sections of the Telecommunications Antennae and Support Structures Guidelines (1996). This notes that the Guidelines advised on locations where telecommunications structures would not be favoured which might include, *lands whose high amenity value is already recognised in a development plan, protected structures, or sites beside schools* - but does not now support minimum distances being stated in the development plan. Temporary permissions are also not favoured: *Where a renewal of a previously temporary permission is being considered, the planning authority should determine the application on its merits with no time limit being attached to the permission.*
- 7.1.2. It is noted that while the enhancement of telecommunications is generally supported in the Guidelines and in the Fingal DP 20-17-2023, the Council refused permission considering that the proposal would be visually obtrusive and detrimental to the visual amenities of the area. They concluded that the proposed development would contravene the High Amenity zoning objective and vision for the area which is to protect and enhance high amenity areas. That it would be contrary to a number of objectives set out within the Fingal DP relating to telecommunications and relevant to siting a mast in this sensitive area and they have regard to landscape character assessment. Also, that it would be contrary to the HA zoning objective for the area and to the proper planning and sustainable development of the area.
- 7.1.3. The Observers consider that the proposed mast siting would have a negative impact on the estuarine environment in this scenic area of High Amenity and on protected views and that it would not comply with the relevant objectives and policies in the Fingal DP 2017-2023. They are also concerned about design issues, proliferation of masts in the area and health and safety implications.
- 7.1.4. The First Party consider that this proposal would be in compliance with the National Broadband Plan and note that the Department of Communications, Energy and Natural Resources confirm the importance of high quality communication services in all aspects of modern life and fundamental to social and economic infrastructure.

With this application Signal seeks to provide eir and a future operator with a site that will increase the wireless broadband capacity in Malahide area which increases the overall coverage capability in the wider Swords, Malahide and Donabate areas and thus circumvent cost to the State. This is in line with the National Broadband Policy and EU Policy where State intervention is considered only as a last resort.

- 7.1.5. Therefore, in this case while the principle of the provision of a telecommunications structure is acceptable and in accordance with policy and guidelines, the issue is the proposed siting and whether in view of its sensitive location it would have a detrimental impact on the setting and high amenity and views of the Malahide Estuary landscape. Regard is had to the documentation submitted including the Visual Impact Assessment and the Technical Justification and Investigation of Alternatives in this Assessment below.

7.2. Technical Justification and Rationale for the Proposal

- 7.2.1. SIGNAL the telecommunications provider, has submitted a Planning Report to provide a rationale for the proposal. They provide that their customer base includes all of the Irish Mobile Network Operators (Three, Vodafone and Meteor), semi-state entities (ESB, Telecoms LTD, CIE & RTE) and commercial telecoms organisations (eir, Virgin,eNet & Viatel) as well as the Emergency Services and local Wireless Internet Service Providers.
- 7.2.2. They note particular expertise in the development of multiple operator infrastructure – developing and providing tower sites that can support multiple operators in both the mobile and broadband spaces. As an independent provider they seek to maximise the use of the structures they develop, which serves to reduce the proliferation of such and deliver services to areas which might otherwise prove uneconomical. They also aim to develop in an environmentally friendly way, making every effort to balance the need for rural and urban infrastructure with the need to minimise visual and ecological impact.
- 7.2.3. They provide that this planning application represents a specific investment by Signal in infrastructure which can be used to enhance the mobile phone and wireless broadband services in the area to address an identified requirement to improve the

coverage and capacity of rural and urban mobile phone services and wireless broadband services available in the local community.

- 7.2.4. The subject site has been designed as a multi-user site capable of meeting all operator requirements to support voice and broadband communications with antennas, transmission dishes and equipment. They note that the proposed site is actively required by eir Mobile (a letter from eir is included with the application) who are looking to expand their services in the area. The proposal of a multi operator structure will accommodate mobile network operators as well as local and national broadband providers. The proposed solution will allow all operators to deploy 3G and high speed 4G broadband services including future 5G rollout. This configuration provides space for interested Operators on site that will be co-located on the antenna support structures. This also meets eir networks coverage requirement for the area as well as a reduced visual impact on the surrounding area.
- 7.2.5. The proposal will form part of the wider network of wireless telecommunications infrastructure that makes up the majority of telecommunications in the Fingal area. A new antenna support structure is required in this area to address a known coverage deficit experienced in the eir network but also to meet future demands on the networks. They consider that Signal is making a positive contribution to the area by providing telecommunications infrastructure for the operators who require a new site in the area. That, this proposal is justified for these reasons in line with national, regional and local planning policy.

7.3. Investigation of Alternatives

- 7.3.1. The Report submitted with the application provides in Section 7.4 details of Existing Telecommunications Sites Identified and Investigated. Figure 7 and Table 1 provides details of such. In all, 10 no. other sites were investigated and it was found that none of these is suitable relative to co-location, coverage and the advantages of the subject site. They provide Figures showing the deficit coverage gap in the area and improvements offered. In summary they provide that the proposed site offers the best possible solution in which to provide a satisfactory level of service to this Malahide Area. It also ensures eir will be able to meet its regulatory requirements along with providing customers with the best possible service.

7.3.2. This investigation of alternatives is reiterated in the First Party Grounds of Appeal. Figure 1 and Table 1 refers to the 10 sites investigated. This includes that the Three site of the bespoke 17m boat mast at the Yacht Club is a single operator structure and that site sharing or co-location is not possible on the existing mast. They provide that while it is accepted that the proposed structure is a different design and in a more prominent position, it will only be 3m taller than that existing. They note that it was not possible to re-position a new structure on the western side of the Yacht Club adjacent to the existing structure because of interference with the equipment thereon. The only option open to the applicant and agreeable to the operator eir and the site provider is on the eastern corner as proposed.

7.3.3. Regard is had further to the issue of the gap in coverage in the First Party Appeal. They note that the search ring provided by the operator is a radius of c.400m. There is a single existing telecommunications installation located within the search ring area and details are provided of all other sites within the wider area outside the search ring area, Figure 1 and Table 1 refer (the 10no. sites are explored). As illustrated in the site search area in Table 1, the proposed installation at Malahide Yacht Club is required as the existing sites in the vicinity will not provide good 3G&4G service to the local area. Without the proposed site the eir's network will have a level of service and coverage that is generally below expected standards and won't fulfil the coverage requirements. This site is seen as the best solution available, which ensures eir will be able to meet its regulatory requirements along with providing customers with the best service. Also, that there are no other sites available in the search area that will meet the technical requirements of eir the operator. They consider that this proposal will allow for clustering of masts in the area that is already developed for utilities.

7.3.4. While these comments are noted, regard is had to the issues presented and to the gap in coverage, the investigation of alternatives and the finding that technically the subject site is the most suitable. Note is also had of the planning history relative to the existing boat mast telecommunications structure and of the repeated grants of temporary permission for this structure, which would now be contrary to the tenor of the aforementioned Circular Letter: PL07/12 Telecommunications Guidelines. There is concern that the addition of the proposed mast structure proximate to the Yacht

Club area will lead to a proliferation of such structures in the immediate vicinity to the detriment of the visual and residential amenities of the area.

7.4. Design and Layout

- 7.4.1. This proposal is to consist of the construction of a 20m multi-user freestanding monopole structure carrying telecommunications equipment i.e 3no. EIR operator antennas, 2no. RRU's per antenna and 2no. 0.3M dishes. In addition, it is proposed to construct 2no. EIR cabinets on concrete plinth, 2no. future operator cabinets on a concrete plinth, 1no. VC1 fibre chamber, all within a compound enclosed by a 2.4m high palisade fence with an MMU and pedestrian access gate. The proposed development is to be accessed via an existing access route. It is also proposed to lay approx. 30m of underground ducting for power to the north of the compound and a MEWP location to the southwest.
- 7.4.2. A column at the top level of the monopole is to shroud and fully encloses the antenna equipment within the monopole structure in order to make a simple slimline structure similar in form to the boat masts within this marine setting. Cabinets and related ancillary equipment are to be contained within a proposed 2.4m palisade fence compound making for a relatively compact site within part of the Yacht Club compound. It is proposed that the ground mounted equipment will be positioned c.0.5m above existing ground level as mitigation measure against sea levels at high and medium probability of coastal flood risk in the area. This is to ensure equipment will be protected from future flooding over its 20 year lifespan.
- 7.4.3. The structure is designed to a minimal height of 20m to meet the coverage objectives of the network and the surrounding area. As the height requirement is fixed it is only possible to improve the design of the telecommunications structure. Given the sensitivity of the area as well as the exposed location it was decided that a street works monopole design that encloses the equipment within the pole itself is the appropriate design solution for the site. The antenna equipment including the cabling and more visually disruptive elements of the telecommunications equipment are to be fully enclosed within the structure making it a more uniform structure and thereby reducing the impact of the development.

7.4.4. The First Party grounds of Appeal includes details and drawings and photomontage images showing modifications to the proposed monopole structure. It is noted that by enclosing the antenna equipment within the monopole structure the applicant has masked the more busy elements of the antenna and other equipment within the monopole structure. However, the revised design reduces the bulk and width of the structure by proposing to remove the shrouded enclosure of the tower, resulting in a more traditional slimline monopole with equipment exposed. The images submitted show a comparison in impact between the shrouded structure and the unshrouded standard single user slim-line monopole assessment. The Board if they decide to grant may wish to consider the alternative design option and this could be conditioned.

7.5. Impact on the Character of the Area

7.5.1. The site is located within a suburban coastal estuary environment zoned as High Amenity in the Fingal Development Plan 2017-2023. There is also a listed/protected view which extends along the Caves Strand Road to the rear of the Malahide Yacht Club. The landscape classifications as outlined in the DP indicate that the area is an important landscape with distinctive character susceptible to small changes.

7.5.2. There is concern regarding the visual impact of the proposed mast on the skyline proximate to Malahide Estuary. It is noted that the existing boat mast design to the west of the Yacht Club building integrates more and appears less obtrusive. The site of the Malahide Yacht is unscreened in views across the estuary from the north and west including in the distance from the M1 flyover bridge across the estuary. The bridge lies approx. 2.5kms to the west. A 200m buffer zone of parkland and green space separates the Yacht Club from the nearest housing developments; within 100m to the south-east lies the national school.

7.5.3. The Council's Parks Section notes that the proposed development is located in a highly sensitive estuarine Landscape Character type. Objective NH35 of the Fingal DP states that various development types including masts would interfere with the character of the highly sensitive areas or with a view or prospect of special amenity value and should be resisted. Objective NH37 states that skylines and ridgelines should be protected from development. They consider that the proposed

development will be visually obtrusive against the skyline and natural setting of the Malahide estuary and recommend that it be refused.

- 7.5.4. Note is had of the existing antenna support structure located on the western side of the Yacht Club premises. This is c.17m high and is designed to appear as a replica boat mast so as to appear more similar in scale and appearance to the various sail masts occupying the skyline. It is contended that this has been incorporated into the skyline without significant visual obstruction or intrusion on the existing visual amenities of the area. The proposed structure will be more prominently positioned on the eastern corner of the premises adjacent to a coppice of trees on the eastern edge of the site.
- 7.5.5. There is concern that this mast will be visually obtrusive in the area especially taking into account the views and highly sensitive character of the landscape of the estuary. It is provided that the advantage of obtaining a high quality ICT infrastructure must however be balanced against the need to safeguard the environment. Visual impact must therefore be kept to a minimum with detailed consideration given to the siting and external appearance of the apparatus and to the scope for utilizing landscaping measures effectively.

7.6. **Landscape & Visual Impact Assessment**

- 7.6.1. Section 9.4 of the Fingal CDP refers to Landscape and includes regard to Landscape Character Assessment (LCA) which provides for the classification of Fingal's Landscape landscapes into the following (1) types and values and (2) sensitivities. The County is divided into 6 landscape types representing generic areas of distinctive character that makes one landscape different from another such as uplands or the coast. The LCA places a value of each landscape character type and on sensitivities ranging from exceptional to low. The subject site is within the *Estuary Character Type*. The importance of this area relative to proximate saltmarsh habitats and to Natura 2000 sites is noted in the Screening for AA Section below. This includes: *The Estuary Character Type is categorised as having an exceptional value, recognised by the EU designations (candidate Special Areas of Conservation and Special Protection Areas) that apply to each in addition to national designations such as proposed Natural Heritage Areas and Ramsar. The aesthetic quality of the*

estuaries is also outstanding. This is a Highly Sensitive Character Type to development i.e. It is a challenge to locate new development in these areas without it becoming unduly obtrusive.

- 7.6.2. The highly sensitive nature of the coastal fringe is noted i.e.: *Finding sites for new development along the coast will be difficult as new development is likely to be conspicuous. The setting and character of coastal areas are particularly sensitive and could easily be damaged by inappropriate development.* This includes that uses such as masts have the potential to give rise to substantial impacts in highly sensitive areas shown on the Green Infrastructure Maps. Principles for Development of relevance include: *Skylines, horizon and ridgelines should be protected from development. Also: The special character of the coast should be protected by preventing inappropriate development on the seaward side of coastal roads and that: The coastal skyline should be protected from intrusive development.* The landscape classifications as outlined in the Fingal DP indicated that the area is an important landscape with distinctive character susceptible to small changes.
- 7.6.3. A Landscape Character Assessment has been submitted as part of the application. This impact assessment considered the development in the context of development policy contained in the Fingal DP 2017-2023. This sought to assess the changes that would arise from the development on available views in the area. This has regard to the relatively flat topography of the area, screening provided by trees and vegetation and the impact on sensitivity of the area is illustrated from a no. of chosen viewpoints. Photomontages with the associated viewpoints are included. An assessment is made of 11no. viewpoints given.
- 7.6.4. The Landscape & Visual Assessment concludes that the proposed development will be exposed from public views in close proximity to the Yacht Club and from coastal views in the surrounding area particularly those from Caves Strand Road within 100m of the site (protected view). It provides that natural screening within the general area will help to soften views towards the site however the visual impact is considered to be medium to high particularly views from public vantage points in close proximity to the site. Wider and more distant views of the structure are somewhat restricted by buildings and screening provided by foliage in the area (mainly deciduous). Views from private residences in the Yellow Walls area are in

the majority unaffected by the installation as views towards the site are limited and so impact on such longer views is considered to be lower overall.

- 7.6.5. Section 9 and Figure 12 of the Report note that the site is over 400m from the closest Protected Structures which are both thatched dwellings. It is provided that given the distances involved and the built up nature of the area the development would not impact negatively on the setting of these structures.
- 7.6.6. The First Party grounds of appeal also includes such viewpoints relative to the proposed modifications to the monopole i.e. *Anticipated Visual Impact of Proposed 20m Single Operator Monopole*. It is noted that the images/photographs were taken on a cloudy day, and it is anticipated that different types of weather/cloud cover would make the mast appear more visible in the skyline. It is noted, that views from the estuary (view no. 11 refers) would be more visible than from the landward side. View no. 5 is also of interest in that it shows the proposed mast relative to the existing 'boat mast' and the proximity of both to the estuary. Also view no.6 shows the mast from the protected view along the frontage of the estuary.
- 7.6.7. While I would consider that the proposed development will provide a proliferation of masts to the detriment of this sensitive high amenity landscape if the Board decides to permit I would consider that the revised mast type would be less visually obtrusive than the more substantial shrouded type originally submitted.

7.7. Access

- 7.7.1. It is proposed to use the existing vehicular access to the Yacht Club. This is from Sea Road. It is noted that the entrance is proximate to the corner with Caves Strand Road to the north so, while within the urban speed limits, visibility is more restricted to the north. There is some unmarked parking provided in the field area to the south of the access. This appears as an informal arrangement and it is noted that this area is not included within the red line boundary which only refers to the area for the proposed monopole and associated telecommunications equipment. It is also outside and not included in the blue line boundary showing the access road and Yacht Club enclosure.

7.7.2. The Observers have some concern that the visual impact of this proposed very high structural mast, will have a detrimental effect on the whole area and will also appear as a dangerous diversion to motorists on this busy road by reason of its proximity to the road and thus could cause a serious health/safety hazard.

7.7.3. The Council's Transportation Planning Section does not object to the proposal. They note that there is no additional parking demand associated with the proposed use. Access via the existing access for the Yacht Club would be for maintenance purposes only which generally would be infrequent. In view of the use of the existing access and the limited use of the site during operational period, I would not consider access to be an issue relevant to this case.

7.8. **Regard to Material Contravention**

7.8.1. Section 37(2)(b) of the 2000 Planning and Development Act (as amended) states:-

“(2)(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that:

(i) the proposed development is of strategic or national importance

(ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to 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, or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.”

7.8.2. In the light of this legal requirement, the first issue to be decided by the Board is whether it considers that the development comes within any of the four exceptions provided for in this Section, as outlined above. I propose to deal with each of the

four exceptions listed in Section 37 (2)(b), in turn, to see whether they apply in the present case. If any do apply, so as to permit the Board to grant a permission, then the question to be determined is whether such a favourable decision should, in the circumstances of the present case, be made.

- 7.8.3. The proposed development is not of *strategic or national importance*. The objectives in the Development plan are not conflicting and are clearly stated. It is of note that the Planning Authority refused permission providing that the proposed development would be contrary to the zoning objective and a number of stated objectives in the Fingal DP 2017-2023. However, they did not specifically include the words '*material contravention*'. These words are used in their response to the grounds of appeal and by the Observers. The issue of concern is that the proposed development would materially contravene the zoning objective for the area i.e the setting of the High Amenity land use zoning and a number of policies and objectives relating to the impact of the proposed siting in the high amenity area, preserved views and landscape character assessment.
- 7.8.4. Having regard to the other issues, the principle of development to improve telecommunications provision in the area is acceptable and note is had of the Telecommunications Guidelines and the relevant planning policies and objectives. This is however, subject to appropriate siting and design. The pattern of development in the area includes the proximate 'Boat Mast', however this type of infrastructure provision is dealt with on a case by case basis.
- 7.8.5. Having regard to the aforementioned policy and objectives and in particular Objectives NH35, NH36, NH38, NH40, NH52 and IT07, IT08 and DMS144 as quoted in the Policy Section above and noted in the Council's reason for refusal and relative to the impact of the proposed siting of the mast in the High Amenity area and within the sensitive landscape of this estuarine area of Malahide, I am not convinced that this prominent location is visually the most suitable location for the mast. It would be visually obtrusive and would not serve to protect and enhance this high amenity area. I would consider that in this respect it could be said that the proposal would be in material contravention of the zoning objective in the Fingal DP. While the appellant has demonstrated the need for such infrastructure within the locality it is

considered that a more appropriate less visually obtrusive location needs to be identified.

7.9. Health and Safety

- 7.9.1. There is concern regarding health and safety issues including relative to possible risk of radiation and impact on local residents and the proximate (c.130m) primary school. Also, that the location of the proposed mast will be within the boat pen storage area of the sailing club which is used by children and young people who use the club on a regular basis throughout the year. The Observers refer to Safety, Health and Welfare at Work (Electromagnetic Fields) Regulations 2016.
- 7.9.2. The DoECLG Circular Letter: PL07/12 which updates certain sections of the Telecommunications Antennae and Support Structures Guidelines (1996) includes: *Planning authorities should be primarily concerned with the appropriate location and design of telecommunications structures and do not have competence for health and safety matters in respect of telecommunications infrastructure. These are regulated by other codes and such matters should not be additionally regulated by the planning process.* Therefore, it is not considered that it would be appropriate for the Board to deal with this issue as it is dealt with under separate remit.

7.10. Screening for Appropriate Assessment

As noted above Section 9.4 of the Fingal CDP includes regard to Landscape Character Types and the subject site is within the Estuary Character Type. This includes: *Along the coast of Fingal there are three large sand spits which have created protected estuarine and saltmarsh habitats of great ornithological and ecological interest at Rogerstown, Swords/ Malahide and Baldoyle. The three estuaries are Natura 2000 Sites (Special Protection Areas and Special Areas of Conservation). The estuaries are also designated proposed Natural Heritage Areas and Ramsar sites.*

- 7.10.1. An AA Screening Report was undertaken by DixonBrosnan Environmental Consultants on behalf of the applicant to determine the potential impacts on Natura 2000 sites in the vicinity of the site. This includes that environmental control measures will be implemented during construction in line with standard guidelines.

The implementation of these measures was not taken into consideration in this screening report when reaching a conclusion as to the predicted impact of the development on Natura 2000 sites.

- 7.10.2. A potential source-pathway-receptor link has been identified between the source (the proposed development site) and the receptor (Malahide Estuary SAC (site code 000205) and Broadmeadow/Swords Estuary SPA (also known as Malahide SPA (site code 004025) as shown on Table 1 of the Screening Report. This has the potential to result in excessive siltation of nearby waterbodies i.e Broadmeadow Water (approx.18m to the north). In addition, impacts could potentially arise from increased noise and disturbance and potential collisions risk (Broadmeadow/Swords Estuary SPA). Overall these proximate Natura 2000 sites are of considerable conservation significance for the occurrence of good examples of habitats and of populations of plant and animal species that are listed in Annexes I and II of the E.U Habitats Directive. A full site synopsis is included in Appendix 1 of the Report.
- 7.10.3. The proposed development is not located within a Natura 2000 site. Table 1 provides a list of designated sites and their location relative to the proposed work site. This notes that the Malahide Estuary SAC is 61m north of the proposed works area. Although improbable a potential impact on this SAC has been identified from potential discharges in surface water during construction to the Broadmeadow Water estuary in which the Natura 2000 site lies north of the proposed building works.
- 7.10.4. The Broadmeadow/Swords Estuary lies 15m north of the proposed works area. Although improbable a potential impact on this SPA has been identified from potential discharges in surface water during construction to the Broadmeadow Water estuary which lies to the north of the proposed works area. In addition there is the potential for impacts to occur from increased noise and disturbance particularly during construction.
- 7.10.5. The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Table 2 provides a list of the Qualifying habitats for Malahide Estuary SAC and Table 3 Features of Interest for the Broadmeadow/Swords Estuary SPA (Malahide Estuary SPA).
- 7.10.6. Details are given of the Site Inspection carried out. The presence of otter is known from the general area, but no habitats suitable for otter were recorded in the

proposed works area. No other protected mammals were recorded during the site survey. Table 4 provides a list of bird species recorded within the area. This includes a number of birds on the red and amber lists. They note that there is no habitat loss for birds within the works project area. There maybe a short-term impact on feeding patterns during construction but the long term impact is predicted to be negligible.

- 7.10.7. It is provided that no habitats of significant ecological value will be affected and no Annex 1 terrestrial or aquatic habitats listed as qualified interests for the Malahide Estuary SAC will be directly or indirectly affected. The long-term impact on habitats within the SAC will be negligible. The proposed development will not result in any significant deterioration in habitat quality or loss of habitat for species listed as qualifying for Broadmeadow /Swords Estuary SPA.
- 7.10.8. They provide that there may be some short-term impacts from noise and disturbance during construction phase. The proposed development is outside the SPA boundary within Malahide Yacht Club on the outskirts of Malahide town and they note ambient noise within the area. During the construction stage, there may be short-term increases in disturbance, but it will not be significant in the context of existing noise levels. No impact on qualifying interests will occur.
- 7.10.9. Section 8.3 of the Report notes there is little information or guidelines in relation to the collision risk created by telecommunications masts. They contend that the height of the mast at 20m does not create a significant collision risk for birds or to birds listed as qualifying interests for the Broadmeadow/Swords Estuary SPA, or any nearby SPA.
- 7.10.10. Regard is also had to the Water Framework Directive and WFD Status. The Malahide Estuary SAC is largely designated on the basis of a range of relatively robust estuarine and marine habitats. It is noted that due to dilution provided in the marine/estuarine environment and naturally fluctuating levels of silt, impacts are only likely to arise from extremely severe levels of siltation. Any spills of hydrocarbons are expected to be negligible given the scale of the project. Minimal levels of silt will be generated during construction. Given the limited scope of the works, the robust nature of the qualifying habitats and the dilution provided in the estuarine marine environment, no impact on the Malahide Estuary SAC is expected to occur. They

provide that any long-term impact on water quality or qualifying interests within the Malahide Estuary SAC and Broadmeadow/Swords Estuary SPA will not occur.

7.10.11. The Screening Report provides that given the limited scale of the proposed development, the lack of a hydrological connection, the dilution provided in the estuarine and marine environment and the distances involved, no potential impact on designated sites has been identified. The proposed development will not have a significant impact on the qualifying interests and conservation objectives for the Natura 2000 sites, and that the integrity of these sites will not be adversely affected. They also provide that there is an absence of any significant impact associated with this project. The conclusion of this report found that given the limited scale of the proposed development any adverse impacts on Natura 2000 sites are considered to be highly unlikely. No significant direct, indirect or cumulative impacts on Natura 2000 sites have been identified. The Screening Report concludes that a Stage 2 AA is not considered necessary.

7.10.12. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. Malahide Estuary SAC (site code 000205) and Broadmeadow/Swords Estuary SPA (also known as Malahide SPA (site code 004025), or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

8.0 Recommendation

8.1. I recommend that permission be refused for the proposed development for the reasons and considerations below.

9.0 Reasons and Considerations

1. Having regard to the sensitive location of the proposed development, proximate to Malahide Estuary in this area of High Amenity categorised as being of exceptional value in Section 9.4 of the Fingal Development Plan 2017-2023 and to its proximity to protected views along the sea frontage of this part of the estuary as shown on Sheet 9 of the said Plan, it is considered that the siting of the proposed development in this location, would interfere with the character of the estuarine landscape and with panoramic views along the sea frontage. The proposal would be in material contravention of the HA zoning objective to: *protect and enhance high amenity areas* and to Landscape Character and Amenity Objectives NH35, NH36, NH38, NH40, NH52 and Telecommunications Objectives IT07, IT08 and DMS144 of the said Plan, would seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

5th of September 2019