



An  
Bord  
Pleanála

## Inspector's Report ABP 310656-21

### Development

Permission for the erection of a new 32.05m multi-user telecommunications support structure carrying 15 No. link dishes, 3 No. lightning finials and 2 No. outdoor cabinets all enclosed within a security compound by a 2.4m high palisade fence with a 4m access gate and site works and accessed via the existing permitted access driveway. The development will provide improved wireless broadband services in the area.

### Location

Lands at 'Petros', Carty's Green, Ballyedmonduff Road, Sandyford, Dublin 18.

### Planning Authority

Dun Laoghaire Rathdown County Council

### Planning Authority Reg. Ref.

D20A/0747

### Applicant

Virgin Media

### Type of Application

Permission

### Planning Authority Decision

Grant Permission.

<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Paul O'Kane Carty's Green Residents Association SBLM Architects (Neville Verdon) and Albert L'Estrange
<b>Observer(s)</b>	Sinéad Nic Gabhann
<b>Date of Site Inspection</b>	14 <sup>th</sup> August 2022
<b>Inspector</b>	Brendan Coyne.

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## 1.0 Site Location and Description

- 1.1. The site (0.01 Ha) is located west of and within the curtilage of the dwelling known as 'Petros' at Carty's Green, Ballyedmonduff Road in Sandyford, Dublin 18. The site comprises a levelled grassed area of land elevated above the remaining garden/landholding of 'Petros'. A dense coniferous forest is situated adjacent to the western and southern boundaries of the site, and a mound of stones adjoins the eastern boundary. The northern boundary adjoins a public right-of-way laneway that connects the Ballyedmonduff Road to the east and Three Rock Mountain to the west. The northern boundary is defined by a timber post and wire fence, as well as mature trees and vegetation, which screen the site from view along the adjacent track. The site offers expansive panoramic views of the Dublin metropolitan area to the north and east.
- 1.2. The residential dwelling 'Petros' is located at c. 100m to the site's southeast. Other residential dwellings in the vicinity to the east of the site include (inter alia) 'Fuscia Lodge' located c. 126m to the east, 'BlackBerry Hill' c. 129m to the north-east and 'Anak Kinhta' c. 207m to the south-east. Three recorded monuments are located c.65-125m to the southwest of the site comprising a ring fort (Ref. No. DU02147) and two circular enclosures (Ref. Nos. DU02146 and DU02148). A further two Recorded Monuments are located 145-185m to the south, comprising a ringfort (Ref. No. DU02149) and an enclosure (Ref. No. DU02150). Stepside village is located c. 1km to the southwest. The immediate surrounding area is mainly rural and mountainous.

## 2.0 Proposed Development

### 2.1.1. Application as lodged to the Planning Authority on the 15/10/2020

### 2.1.2. Permission sought for the following (as described in the public notices);

- The erection of a new 32.05m multi-user telecommunications support structure carrying the following:
  - 15 No. link dishes,
  - 3 No. lightning finials and
  - 2 No. outdoor cabinets

- The compound would be enclosed by a 2.4m high palisade fence with a 4m access gate.
- The site compound would be accessed via the existing permitted access driveway.
- The proposed development will provide improved wireless broadband services in the area.

### 2.1.3. Revised Proposal as submitted by way of Significant Further Information on the 07/05/2021.

- The height of the proposed telecommunications support structure is reduced from 32.05m to 24.05m.
- The width of the proposed structure is reduced from the original 3m base to top to 3m at the base, tapering to 2m at the top.
- All the ground-based cabinets, the palisade fence surrounding the compound and the mast will be painted green.

There is no change to the number of link dishes, lighting finials and outdoor cabinets proposed under the amended design.

## 3.0 Planning Authority Decision

### 3.1. Decision

Dun Laoghaire Rathdown County Council GRANTED permission for the proposed development subject to 7 no. Conditions. Noted Conditions include:

C.2 To ensure full implementation of the proposed landscape plan, the developer is required to retain the services of a Landscape Consultant throughout the life of the site development works. A completion certificate is to be signed off by the Landscape Consultant when all works are completed and in line with the submitted original landscape drawings. This completion certificate shall be submitted to the Planning Authority for written agreement upon completion of the works.

REASON: In the interest of amenity.

C.3 That the development must strictly comply with the European Communities (Electronic Communications Authorisation) Regulations, 2000 and the ICNIRP guidelines for public exposure to electromagnetic fields.

REASON: In the interest of public health.

C.4 No material change of use of the mast shall be made without a prior grant of planning permission.

Reason: To safeguard the amenities of the area.

C.5 The telecommunications structure and related ancillary structures shall be removed within six months of the end of the useful lifespan of the telecommunications structure for the purposes herein permitted. The site shall be reinstated on removal of the telecommunications structure and ancillary structures. Details relating to their removal and reinstatement shall be submitted to and agreed in writing with the Planning Authority, within one month of the end of its useful lifespan.

Reason: In the interest of orderly development.

C.6 During the construction phase of the development, the shared trail to the immediate north of the site shall remain open to the public and unobstructed, unless otherwise agreed with in writing with the Planning Authority.

Reason: To safeguard the amenities of the area and in the interest of public safety.

C.7 The external finishes to the proposed palisade fencing (including the entrance gate) surrounding the subject site and ground-based cabinets are to be painted with a green finish.

Reason: In the interest of visual amenity.

## **3.2. Planning Authority Reports**

### **3.2.1. First Report (08/12/2020)**

- Telecommunications masts are not identified in the County Development Plan's use classes.

- Section 8.3.7 of the County Development Plan states that uses not specifically mentioned in the use tables will be considered case-by-case based on the plan's general objectives and the area's zoning objective.
- Policy EI28 states that it is the policy of the Council to promote and facilitate the provision of a suitable telecommunications infrastructure, including broadband connectivity and other technologies, within the county. In order to develop a high-quality telecommunications network, it is frequently necessary to place masts in rural areas, and in some cases, in areas with high amenity value.
- The Development Plan states that the advantages of a high-quality telecommunications network must be weighed against the need to protect the rural and urban environment, especially in sensitive areas where residential and visual amenities must be addressed.
- The proposal is for a multi-use telecommunications support structure.
- The Applicant states that existing towers and infrastructure in the area (between 0.75km and 0.97km away) are at capacity, either structurally or in terms of ComReg licencing. As such, the proposed structure is required for the expansion of the area's broadband network.
- The Applicant has submitted a map showing all telecommunication sites within a 0.5km, 1.5km and 3km radius of the site.
- There are five structures within 1km of the site.
- The nearest telecommunications structures are 750m away at Three Rock (a cluster of Virgin Media Towers) and are said to be at structural and frequency capacity.
- According to the Technical Justification document, the proposed structure will improve broadband services for the majority of Dublin City Centre and North Dublin from Howth/Sutton/Baldoyle to Blanchardstown/Finglas, and the South Dublin areas of Rathmines, Ballsbridge, Stillorgan, and south to Blackrock, Killiney, Dun Laoghaire, Dalkey, and parts of North Wicklow.
- The property at Petros is the closest residential property to the site, and there are c. ten other properties along the laneway.

- The nearest neighbouring properties, aside from Petros, are located a minimum of 130 metres from the site.
- There are no schools within proximity of the site. The nearest schools are within Kiltiernan Village, over 1.7 km from the site.
- The proposed mast would be located within an area zoned 'To protect and improve high amenity areas'
- The proposal is for a 32-metre-high telecommunications tower and associated support cabinets, enclosed by a 2.4 high palisade fence.
- The proposed structure is of standard design and is typical of other telecommunications towers in the area.
- Section 2.5 of the Planning Report submitted by the Applicant includes details, maps and images of the proposal's visual impact. However, this document is inadequate, and the images are unclear.
- Nine identified site viewpoints have been submitted (up to 3km distance). In addition, photomontages of the proposed telecommunications mast where the mast would be visible from the selected viewpoints have been created.
- The accompanying OS Map submitted with the nine photomontages does not provide the individual location of the nine viewpoints, although coordinates have been provided. Clarity should be sought on this matter.
- Viewpoints 1 and 2 are close to the site where the mast would be most visible. This view is from the private lands of Petros and would not be accessible to the public.
- Viewpoint 3 is taken from the public road at Buckley's Fireplaces. Because of the trees to the rear of the site, the expected view shows that it is difficult to see the mast clearly.
- Viewpoints 4,5, and 6, show the mast as being visibly prominent, albeit smaller than the masts on Three Rock.
- The 'proposed view' of viewpoint 7 appears to be missing from the submitted documentation.
- Viewpoint 8 shows that the mast is partially visible, although this viewpoint's exact location is unclear.



- The site has the benefit of being framed by trees. However, the presence of the proposed development at this entrance to forestry lands would be stark and abrupt.
- While the Planning Guidelines for 'Telecommunications Antenna and Support Structures' state that towers and masts can be placed in forestry plantations, the Planning Authority considers the proposed location as not the optimum choice in this area of high amenity.
- The Applicant should submit further information regarding the Visual Impact Assessment, including revised images of higher quality, clearly setting out the location of the viewpoints. In addition, the Applicant should submit a viewpoint image from the access roadway to the Forest Walk to the North of the site.
- Appendix 7, 'Landscape Character Areas' of the Dun Laoghaire Rathdown County Development Plan, 2026 - 2022, identifies the site as within Landscape Character Area 9 'Barnacullia'.
- The Applicant has not provided any information regarding the relationship between the proposed development and the receiving environment within this sensitive Landscape Character Area.
- The entrance appears to be from the laneway, but no elevational details have been submitted, so details of the entrance arrangements should be provided.
- The proposed mast provides for the co-location of telecommunications antennae/dishes, reducing the demand for similar supporting structures within the area. Accordingly, a Condition should be attached in the event of a grant of permission stipulating that the Applicant shall provide and make available, on reasonable terms, the proposed mast for the provision of mobile telecommunications antennae/dishes of third-party licensed telecommunication operators.
- Screening for Appropriate Assessment deems the proposed development would not significantly impact upon a Natura 2000 sites.

**3.2.2. Further information was requested requiring the following:**

1. The Planning Authority has serious concern regarding the quality and completeness of the Visual Impact Assessment submitted in support of the Application, in that the images are unclear and of an insufficient quality to allow a full assessment of the visual impact of the proposal. The Applicant is requested to submit a revised Visual Impact Assessment that contains the following -
  - High quality images with the proposal incorporated from all viewpoints.
  - Drawings and details clearly outlining the exact location of the viewpoints contained within the Visual Impact Assessment.
  - A view point clearly showing the proposed development in context when viewed from the pathway up to the Forest Walk to the North of the site.
2. The site is located within an area zoned 'G', 'to protect and / or improve high amenity areas' under the Dun Laoghaire Rathdown County Development Plan 2016 - 2022. Having regard to this zoning objective as well as, to Policy LHB2: Preservation of Landscape Character Area, Policy LHBS: Historic Landscape Character Areas, Policy LHB13: Dublin Mountains Strategic Plan and Policy LHB15: Recreation Access Routes; the Applicant is hereby requested to submit detailed analysis (including a Viewshed analysis) as to the impact of the proposed development on this High Amenity, Landscape Character Area. It should be noted that the Planning Authority has significant concern that the proposed development would seriously detract from the areas' zoning and policy objectives.
3. a) The Applicant is requested to submit drawings and details of the entrance arrangements to the site as the expanded layout plan appears to suggest an entrance from the pathway to the north. The Applicant is requested to submit elevational drawings/ contiguous elevations in this regard.  
  
b) The Applicant is also requested to clarify if any trees or hedging are to be removed to facilitate the development.
4. The Applicant is requested to explain the rationale for proposing this mast design at this sensitive, high amenity location and are invited to submit proposals for an alternative design, including a cable-stayed tower design with slimmer tower structure.

### 3.2.3. **Second Report (02/06/2021)**

- Significant Further Information received.
- The Applicant has provided an amended Visual Impact Assessment (VIA).
- A viewpoint plot plan has been submitted detailing the location of the eleven viewpoints within the VIA.
- The Applicant has provided a viewpoint of the subject site on the northern side of the forest walk path.
- Regarding the submitted VIA, the Applicant notes that viewpoints nos. 2, 8, 9 and 10 provide blocked views to the subject site and proposed mast.
- As the views are obscured due to the existing terrain and vegetation, the proposed mast has been shown in red to demonstrate its location, albeit not visible.
- Table 1 in the further information response report, prepared by 4site, also provides a viewpoint analysis.
- In the revised VIA, an additional view taken from the northern side of the boundary fence has been provided, shown as viewpoint nos. 8 and 9, respectively.
- The overall height of the proposed mast has been reduced from 32.05 metres to 24.05 metres, a reduction of 8 metres.
- The width of the structure has also been reduced, from a 3-metre wide structure (base to top), to a 3-metre wide base tapering to 2 metres at the top.
- The additional ground-based cabinets and fencing surround will be painted green.
- The quality of the revised VIA images has significantly improved compared to the original submission.
- In assessing the submitted VIA, it is clear that the proposed telecommunication mast will remain visible within the surrounding landscape.
- The reduction in height will further reduce the visual impact of the mast in the broader landscape.
- The mature coniferous trees to the south, southwest, west and northwest of the proposed mast would provide both a significant visual screen and backdrop to the

proposed mast. This backdrop would soften the overall impact of the proposed mast, particularly when viewed from a considerable distance.

- The nearby cluster of masts located on Three Rock Mountain is larger and more open and visible. Thus, the proposal's overall visual impact would be less when compared with the existing nearby masts.
- The Applicant has provided an analysis of the impact of the proposed telecommunication mast on the High Amenity Landscape Character Area.
- Reducing the height of the proposed telecommunications mast by 8 metres and the width to a minimum of 2 metres at the top would significantly reduce the proposal's visual impact on the high amenity area.
- Whilst it is accepted that the mast would still be visible within the surrounding landscape, there are a number of clusters of telecommunication masts within proximity to the subject site.
- As the sites in proximity provide much larger and more visible masts than what is being proposed, it is considered that the revised proposal would not significantly detract from the zoning objective.
- The proposed mast would be obscured from view from much of the south and west.
- Due to the reduction in height by 8 metres to 24.05 metres, the impact of the conifer trees softening the visual impact of the mast when viewed from the north and east would be more pronounced.
- The reduction in height is considered a more appropriate response to the site's topography, with the removal of 8 metres of mast significantly reducing the bulk of the structure.
- The Applicant has informed that the access path leading from Ballyedmonduff Road on the northern side of the property is not owned by Coillte and is in ownership of the lands at the subject site, 'Petros', Carty's Green, Ballyedmonduff Road.
- The Applicant has stated that the trail on the property's northern boundary is part of the subject site and is not an adopted right of way. Nonetheless, given the shared access between users, particularly Coillte and the general public for access into

the Three Rock mountain, the existing track would be considered a 'right of way' for the purposes of the Application.

- The Applicant has indicated that the existing access track will remain open and available for any person(s) to walk along for recreational purposes at all times. As a result, Policy LHB14: Public Rights-of-Way would be applicable.
- Although a Viewshed Analysis has not been submitted, the Planning Authority has sufficient information to make a determination in this instance.
- The proposed work does not alter any portion of the existing shared trail, with the exception of the removal of four metres of the existing side boundary fence (timber post and wire) and its replacement with a four-metre access gate.
- It is not anticipated that the required use of the shared trail to access the telecommunication mast site would result in a high volume of vehicle traffic.
- The proposed access gate would not significantly impact the various trail users, including hikers, runners, horse riders, and cyclists, who use the trail leading to the Three Rock mountain site.
- A condition should be imposed requiring that access to the Three Rock mountain via the shared trail remain open to all users during the construction phase and should not be obstructed for extended periods of time unless agreed with by the Planning Authority.
- The provision of the vehicle entrance gate would require the removal of 3 no. of trees, along with site works to allow vehicle access.
- The Local Authority is of the view that the existing trees and landscaping on the northern boundary of the site have been overstated.
- It is possible to improve the condition and appearance of the existing trail, which is utilised by the owner, Coillte, and the public. Therefore, a condition should be imposed requiring a comprehensive landscaping plan to plant out the northern boundary in order to reduce the proposed mast's visibility and soften the proposed site entrance from the existing trail.
- The proposed development is considered to be in accordance with Policy LHB14 of the Dun Laoghaire Rathdown County Development Plan, 2016 – 2022.

- The Applicant has submitted a revised site layout plan, site entrance plan and site entrance elevation plan clarifying the access arrangements to the site.
- The Applicant confirms that the existing access track (as shown by a coloured yellow line in the planning drawings) is wholly within the ownership of 'Petros', Carty's Green, Ballyedmonduff Road, as confirmed on relevant legal title documents defining the curtilage/ownership relating to 'Petros.' The legal title documents grant Coillte a right of way over the existing access track.
- The revised site layout plan, site entrance plan and site entrance elevation plan all detail that 3 no. of conifer trees would be removed to provide access to the location of the mast and related cabinet equipment/media cabin.
- The Planning Authority concludes that the proposed telecommunications mast and ancillary structures comply with the relevant policies and objectives of the Dun Laoghaire Rathdown County Development Plan, 2016 - 2022.
- The proposed development complies with the zoning objective and, subject to applicable conditions, will not significantly detract from the residential amenity of the surrounding area.
- Recommendation: Grant Permission.

### 3.3. Other Technical Reports

**Transportation Planning Section** – No objection subject to a standard condition regarding preventing mud, dirt, debris or building material from being placed on the public road or adjoining property as a result of the site works.

**Drainage Section** – No objections.

**E.H.O** – No comment to make on Further Information received.

## 4.0 Planning History

### 4.1.1. Subject Site

There is no relevant planning history on the subject site.

### 4.1.2. 'Petros' Landholding

**P.A. Ref. D05B/0089** Permission GRANTED in 2005 for a single storey garage extension to the existing dwelling.

#### 4.2. **Other Telecommunication Masts at Black Quarry, Three Rock Mountain.**

**P.A. Ref. D18A/0010** Permission GRANTED to Irish Radiophones for the retention of a 42 metre high freestanding telecommunications.

**P.A. Ref. D15A/0480** Retention Permission GRANTED to UPC Communications Ireland to retain the lower 18m of an existing 30.5 metre high stayed mast.

**P.A. Ref. D14A/0530** Permission GRANTED to UPC Communications Ireland Ltd to replace the existing 30.5 metre high stayed mast.

**P.A. Ref. D10A/0324** Permission GRANTED to Irish Radiophones for the dismantling a c. 30.5 metre high cable stayed telecommunications and the erection of a 42 metre high freestanding telecommunications mast with aerials, antennae and dishes, a single storey equipment building (8.6 sq.m) 2.5 metre high perimeter fencing and ancillary site development works.

## 5.0 **Policy and Context**

### 5.1. **Development Plan**

The Dún Laoghaire Rathdown County Council County Development Plan 2022-2028 is the statutory plan for the area.

**Land Use Zoning:** The site is zoned 'G' with the objective 'To protect and improve high amenity areas'. (Zoning Map 9)

**Table 13.1.5 Zoning Objective 'G' Matrix** – Public Services are 'Open For Consideration'

**Section 13.2 Definition of Use Classes** – telecommunications are defined as a public service.

**Recorded Monuments:** There are 3 no. recorded monuments located c.65-125m to the southwest of the site comprising a ring fort (Ref. No. DU02147) and two circular enclosures (Ref. Nos. DU02146 and DU02148).

A further two Recorded Monuments are located 145-185m to the south comprising a ringfort (Ref. No. DU02149) and an enclosure (Ref. No. DU02150).

The appeal site does not lie within the zone of influence of these Recorded Monuments.

### **Section 10.6 Telecommunications**

**Policy Objective EI20: Telecommunications Infrastructure** - It is a Policy Objective to promote and facilitate the provision of an appropriate telecommunications infrastructure, including broadband, fibre optic connectivity and other technologies, within the County.

**Section 12.9.8 Telecommunications** - In the consideration of proposals for telecommunications antennae and support structures, applicants will be required to demonstrate:

- Compliance with the Planning Guidelines for 'Telecommunications Antennae and Support Structures' (1996), and Circular Letter PL 08/12 issued by the Department of the Environment and Local Government (as may be amended from time to time), and to other publications and material as may be relevant in the circumstances.
- On a map the location of all existing telecommunications structures within a 1km radius of the proposed site, stating reasons why (if not proposed) it is not feasible to share existing facilities having regard to the 'Code of Practice on Sharing of Radio Sites', issued by the Commission for Communications Regulation.
- To what degree the proposal will impact on the amenities of occupiers of nearby properties, or the amenities of the area - e.g. visual impacts of masts and associated equipment cabinets, security fencing treatment etc. – and the potential for mitigating visual impacts including low and mid – level landscape screening, tree type masts being provided where appropriate, colouring, or painting of masts and antennae, and considered access arrangements.
- Any impacts on rights-of-way and walking routes.



- That the proposal shall not have a significant negative visual impact.

**Policy Objective GIB2: Landscape Character Areas** - It is a Policy Objective to continue to protect, manage and plan to conserve, maintain or enhance the distinctive characteristics of the County's landscapes, townscapes and seascapes in accordance with the recommended strategies as originally outlined in the Landscape Character Assessment (2002 and since updated), in accordance with the 'Draft Guidelines for Landscape and Landscape Assessment' (2000) as issued by the Department of Environment and Local Government, in accordance with the European Landscape Convention (Florence Convention) and in accordance with 'A National Landscape Strategy for Ireland – 2015-2025'. The Council shall implement any relevant recommendations contained in the Department of Arts, Heritage, and the Gaeltacht's National Landscape Strategy for Ireland, 2015 - 2025.

**Policy Objective GIB6: Views and Prospects** It is a Policy Objective to preserve, protect and encourage the enjoyment of views and prospects of special amenity value or special interests, and to prevent development, which would block or otherwise interfere with Views and/or Prospects.

**Table 8.1 Prospects to be Preserved** - Relevant Prospects i.e. prominent landscapes or areas of special amenity value, or special interest which are widely visible from the surrounding area of relevance include:

- Three Rock Mountain and Two Rock Mountain from the Enniskerry Road (Sandyford-Kiltiernan area) and Sandyford Village.
- Three Rock Mountain and Two Rock Mountain from the Ballybrack Road.
- Three Rock Mountain and Kilmashogue Mountain from Marlay Park

**Appendix 8 - Landscape Character Assessment** – The appeal site is located in Area 9 Barnacullia.

**Policy Objective GIB22: NonDesignated Areas of Biodiversity Importance**

**Policy Objective OSR7: Trees, Woodland and Forestry**

## 5.2. Relevant Government Policy / Guidelines

National Planning Framework – Project Ireland 2040

National Broadband Plan (2020)

DOELG (1996) Telecommunications Antennae Support Structures: Guidelines for Planning Authorities.

Circular Letter PL 07/12 – Telecommunications Antennae and Support Structure Guidelines, Department of Environment, Community and Local Government (October 2012).

### **5.3. Natural Heritage Designations**

5.3.1. The nearest Natura 2000 European Sites to the appeal site are as follows:

- The Wicklow Mountains SAC (Site Code: 002122), approx. 3.5 km southwest of the site.
- The Wicklow Mountains SPA (Site Code: 004040), approx. 4 km southwest of the site.

### **5.4. EIA Screening**

5.4.1. A telecommunications structure is not a type of development listed in Schedule 5 Part 1 or Part 2 of the Planning and Development Regulations 2001 (as amended), which sets out types of development for which a mandatory or sub-threshold Environmental Impact Assessment Report is required. As such an Environmental Impact Assessment Report is not required for the proposed development.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. Third-party appeals against the decision of the Planning Authority were received from the following;

- Paul O'Kane of No. 36 Coolkill, Sandyford, Dublin.
- John Bird on behalf of Carty's Green Residents Association, c/o Conor O'Cleary, Blackberry Hill, Carty's Green, Ballyedmonduff, Co. Dublin.

- SBLM Architects (Neville Verdon – owner of Ballyedmonduff Lodge) and Albert L'Estrange, all of Carty's Green.

The grounds of appeal of both appellants are synopsised below accordingly.

6.1.2. **Appeal by Paul O'Kane** - summarised under the headings below:

6.1.2.1. Justification for the proposal

- The Applicant rejects without justification the option to develop or expand its own compound within 720m of the proposed structure, not 760m as stated.
- The Applicant fails to adequately address the option of sharing or developing adjacent sites, as recommended by the Telecommunications and Antennae Support Structures Guidelines for Planning Authorities.
- The onus is on the Applicant to provide all relevant corroborating evidence to substantiate its claims. It's not the responsibility of objectors to disprove its claims.
- The Technical Justification is non-technical and justifies nothing.

6.1.2.2. Improvement in High-Speed Broadband.

- The Applicant has failed to quantify the alleged significant improvement of high-speed broadband services that the proposal would provide.
- The Applicant has failed to provide corroborating evidence from structural or telecommunications engineers or ComReg that the existing towers in the vicinity are "at capacity" or that sharing is not feasible.
- During a site visit to the Applicants' existing compound on 19 June 2021, an Appellant observed that there was sufficient space, contiguous to and immediately adjacent to the compound, to extend the compound or construct an additional compound with a larger footprint than the proposed project.
- The Applicant fails to address the option to replace its existing towers with taller or higher-specification towers on a phased basis.
- Regarding licensing capacity, the absence of supporting documentation from ComReg means that this claim of at-capacity should be disregarded.

- The ComReg map supplied (Appendix 6) locates the appeal site and identifies various broadband operator sites. However, the location of the Applicant's existing compound is neither marked nor identified.
- Aerial photograph submitted showing the Applicant's existing compound and an adjacent area of unused land. At this location, the larger of the towers on the site is lightly loaded and not close to structural capacity. The Justification Report fails to address sharing options on the existing relatively large and lightly loaded mast and compound immediately to the north, on the other side of the public path.

#### 6.1.2.3. Location

- Details of all suitable lands and buildings within a specific search radius of the appeal site are not provided.
- The Applicant fails to offer any documentation or references on the purported provider network requirements and black spots.
- No specific black spots have been listed or quantified.
- The Applicant fails to mention that their existing tower, located 0.76 km away, already facilitates the required technical line of sight requirements into most areas in Dublin city.
- The appeal site provides no advantage in preventing black spots owing to its elevation.
- The Justification Report provides only one coverage plot, not multiple plots, as claimed.
- The Justification Report fails to demonstrate, using appropriate plots, how the claimed coverage differs significantly from or is superior to the black spots already enjoyed by the Applicant's existing site.
- The Justification has provided no specific evidence of any clear technical or network coverage need.

#### 6.1.2.4. Alternative Telecoms Structures

- The detail of approximate heights with an implication of technical precision is misleading.
- The fundamental requirement to meet the coverage needs of an individual broadband provider is that relevant link dish pairs be in the line of sight of each other.
- Actual heights AGL (above ground level) have no particular significance.
- The false claims demonstrate technical incompetence or a deliberate attempt to mislead.
- The height of the proposed 24m tower can no longer be considered optimum.
- The Justification report contains no findings relating to technical analysis to confirm that the location can provide for the needs of several broadband operators and accommodate future technologies.
- The Hibernian Towers compound, co-located with the Applicant's existing compound, is not included in the 5 Telecoms sites listed or shown on the ComReg map in Appendix 6.

#### 6.1.2.5. Site Selection Justification

- The Applicant has not submitted evidence of a single license refusal by ComReg.
- No statement from Comreg confirming the claim of interference has been submitted.

#### 6.1.2.6. Exclusion Zone

- The Applicant's claim that the site will remove frequency congestion issues because it is outside the exclusion zone of existing towers in the area is misleading and false.
- The tower in the Hibernian Towers compound at Three Rock Quarry, less than 36 metres from the Applicant's lightly loaded tower at the same location, has a prominent notice posted on the entrance stating that "there is space available on this tower". Photograph submitted, dated 11<sup>th</sup> June 2021, showing same.

- The Applicant has provided neither a definition nor explanation of the term exclusion zone. The Applicant has failed to substantiate this claim and thereby should be disregarded.

6.1.3. **Appeal by Carty's Green Residents Group** - summarised under the headings below:

6.1.3.1. Deficiencies in the Application and Decision

- The proposed site appears to be outside the registered boundaries of 'Petros'.
- The Letter of Consent refers only to the red line access road, mast, and cabin area, which also coincides with the blue line.
- The Planning Authority should have requested full details to ensure that the application was valid.
- The Planning Authority should have regarded the application as invalid or at least source specific further information.
- True site levels have not been provided, nor has any temporary benchmark been used, which would have allowed the Planning Authority to set specific height conditions for the base and height of the mast.
- The absence of this information has deprived the public of the right to accurate counter assertions concerning height, views or the "viewshed".
- Due process has not been followed.
- Specifications of the road that would provide access to the site were not addressed during the application stage or in response to the request for additional information.
- There is a mound of stones at or near the site, and in the absence of a site survey, it gives the applicant freedom in relation to actual base levels.
- An accurate contour survey of the site has not been provided.

6.1.3.2. Land Ownership

- The site appears to be outside the boundaries of 'Petros'.

- The Letter of Consent refers only to the red line access road, mast, and cabins area which also coincides with the blue line.

#### 6.1.3.3. Access to the Site

- Specifics have not been provided as to whether the site will be accessed by the cul-de-sac off Ballyedmonduff Road, which is a narrow lane with 10 dwellings, or via the Coillte lands.

#### 6.1.3.4. Broadband Services

- The original application states that the mast will provide broadband extending to Howth and other areas of Co. Dublin. However, the submission of significant further information states that the development will provide improved wireless broadband services in the area.

#### 6.1.3.5. Power and Cable Connection

- The forest road serving the site contains several manholes that run west and north, close to the site. These apparent telecom cables suggest that alternative sites could be found within the extensive Coillte lands and at a distance from residences and recorded monuments.

#### 6.1.3.6. Noise

- The issue of noise from the mast structure, aerials and dishes has not been addressed.
- The proposal is unnecessarily close to long-established residences.
- A baseline study should have been conducted so that daytime and night-time noise levels for surrounding and adjacent households could have been monitored once the mast is erected and as each aerial/dish is added.

#### 6.1.3.7. Evaluation

- The application was not referred to ComReg.

- The Applicant claims there is no capacity on existing masts in the vicinity. In the absence of a referral to and submission from ComReg, there is no evidence of this claim.
- There is photographic evidence of prominently advertised spare capacity on an existing telecommunication mast at Tree Rock Quarry - photo attached.
- The Applicant has failed to provide a site survey or OS Datum, which would allow a site evaluation, meaningful visual assessment, or the imposition of conditions concerning the base level, height, or enforcement of conditions.
- Relative tree heights cannot be ascertained.
- The compound is not shown.
- No conditions pertinent to the construction route and methodology are stipulated.
- The site shown within the blue line does not show the full extent of the lands claimed to be in the possession of the owner. The Applicant has only shown a net area which cannot provide for a compound or landscaping.
- In the absence of a map showing the full landholding, the landscaping condition is inoperable.
- The landscaping plan to which Condition No. 2 refers is not on file and does not exist.
- The Planning Authority has failed to evaluate the current regulations in relation to establishing the blue line of the Applicant's claimed ownership. Previous permission granted to the landowner and Land Registry maps both show a more extensive area.
- The Planning Authority has not challenged the absence of accuracy levels or sort of tree survey.
- The resources of the Planning Authority's Parks Department have not been utilised.
- The Development Plan "Prospects" from Three Rock Mountain do not appear to have been evaluated.
- The "Viewshed" as requested by further information has not been submitted.



- Coillte's plans for the adjoining mature forest and for future management of the Zone of Archaeological Interest have not been sought.
- No external referrals were made. The Board is requested to consider the referrals that should have been made.

#### 6.1.3.8. Validity of Application

- This construction compound site is not shown.
- Adjoining or adjacent land ownership is not shown.
- A site contour survey has not been submitted.

#### 6.1.3.9. External Statutory Referrals

- The mast is not warranted at this location.
- The application should have been referred to ComReg, the Minister for Communications, An Comhairle Ealaíon, Fáilte Ireland, the Heritage Council, An Taisce, the National Parks and Wildlife Service and Birdwatch Ireland.

#### 6.1.3.10. Supporting documentation lodged with this appeal include the following:

- Photographs of IRP Three Rock Quarry (Site ID MDU053).
- Map showing the location of the proposal.

#### 6.1.4. **Appeal by SBLM Architects** – summarised under the headings below:

- The proposed mast is located on the residential property known as 'Petros', within 100m of the dwelling.
- The location of the proposed mast on a residential property in close proximity to a number of adjacent family dwellings, sited in an area zoned objective "G", to protect and improve high amenity areas and at one of only two public entrances to Three Rock Mountain is fundamentally flawed and not in line with Dun Laoghaire Rathdown County Council Development Plan policy or the Telecommunications Antennae and Support Structure Guidelines for Planning Authorities (1996).

- There's no reason the mast can't be placed next to the existing mast cluster, located 0.75 km away at Three Rock Quarry.

#### 6.1.4.1. Telecommunications Antennae and Support Structure Guidelines

- The proposed mast would rise 64m above ground level as viewed from the cluster of houses at Carty's Green, located c. 190m away from the site. In comparison, Liberty Hall has a height of 59m.
- The technical justification report for the proposal, prepared by Vilicom, is seriously deficient.
- No evidence has been provided to justify alleged capacity issues or 'black spots'.
- The report does not justify how existing infrastructure could be used to enhance the network. A number of telecommunication masts in the area have the capacity for additional infrastructure.
- The Applicant has failed to notify ComReg or the Minister for Telecommunications.
- The Applicant's claim in their justification report that a new mast is necessary "because existing towers and infrastructure in the vicinity are at capacity" is false. An adjacent Hibernian Communications Tower (Site ID: MDU053) at Three Rock Quarry is advertising space availability on their mast, as evidenced by photos submitted.

#### 6.1.4.2. Risk to Protected Birds and Species

- Summary of points raised in a submission to the Planning Authority by Michael O'Cleary, professional Bird and Wildlife Surveyor, as follows;
  - The proposed mast would be both a direct and indirect threat to several protected species of birds and mammals.
  - The proposed mast represents a collision risk to birds, and electromagnetic pollution has been shown to adversely affect wildlife.
  - Many species, particularly wildfowl and birds of prey, are susceptible to collision with tower masts. These collisions are well documented in scientific literature and occur at night or during times of poor visibility e.g. fog, rain etc.
  - Electromagnetic pollution poses a risk to birds and wildlife

- Woodstock is an amber-listed protected species in Ireland, and Three Rock Mountain is one of the foremost sites in Dublin for nesting Woodstock. Several pairs nest annually in the vicinity of Carty's Green. Their distinctive 'riding' display flight takes place at dusk directly over the site of the proposed mast, where there would be a high risk of collision.
- Buzzards are fully protected species in Ireland and are regularly recorded in the Three Rock Mountain area. The proposed mast represents a risk to these birds.
- The proposed mast represents a risk to other birds of prey and owls, including Peregrine Falcon, Merlin, Red Kite and Long Eared Owl, and other bird species.
- Bats are susceptible to masts. At least three species of bats have been recorded in the area.
- All bat species are protected by the Wildlife Acts 1976/2020.
- The NPWS should have been consulted in advance of the submission of the application.
- The Planning Authority has a duty of care to ensure that bats roosts are protected.
- The application has not been subject to any proper environmental assessment.
- A Natura Impact Statement should have been submitted with the application.
- The screening out of the proposal for EIA or AA was performed in a perfunctory manner.
- The proposal would have an impact on European Sites and/or protected species.
- The proposed development may give rise to requirements for a derogation licence under the 2011 Regulations, as the proposal will require the removal of trees and interference with protected species.

#### 6.1.4.3. Views and Prospects

- The drawings submitted do not show contour lines/datum levels.
- The views submitted do not clearly demonstrate the impact of the proposal on the surrounding area.
- The site of the proposal is located in a residential area of high visual amenity.

- The visual impact assessment of the proposal is deficient.
- A tree survey has not been submitted as part of the application.
- A 'viewshed' has not been submitted.
- The choice of views is not justified.
- The quality of the photomontages is unacceptable, and their scaling is questionable.
- Table 4.11 of the Development Plan lists 'Prospects to be Preserved'. These include Three Rock Mountain and Two Rock Mountain from the Enniskerry Road and Sandyford Village. Both the visual impact assessment submitted and the Planning Authority failed to give adequate consideration to this.
- The existing screening indicated on the Applicant's drawing along the site's northern boundary does not exist, as evidenced by the photographs submitted.
- The forestry along the southern boundary is under the ownership of Coillte and will eventually be felled.
- The presence of the proposed mast at the entrance to the forestry land would be stark and abrupt.
- The proposal would have a significant negative impact on the surrounding area.
- The Appellant has submitted a Visual Impact Assessment of the proposal from the surrounding area - Appendix 6.

#### 6.1.4.4. Validity of the Application

- The original application was not valid.
- The site notice does not describe the proposed 15 sq.m. / 3 m high media cabinet.
- The development description describes how the proposal would be accessed via the "existing permitted access driveway", from the forest access laneway. In contrast, the Site Layout Plan indicated a new access laneway to the proposed mast compound.
- The Site Location Map indicated only the site mast compound and proposed driveway outlined in red and blue. As the application relates to the property 'Petros', the entire landholding should have been outlined in red, and adjacent lands under the same owner should have been outlined in blue.

- The Site Location Map provides no dimensions, a requirement of Article 23 of the Planning and Development Regulations 2001 (as amended).
- The grade difference across the site and adjoining lands are not indicated.
- Buildings and site work on adjoining lands and their site levels should have been shown on the submitted drawings, including section drawings.
- The Cabinet Layout Plan does not indicate the height of the proposed cabins.
- Certain Prescribed Bodies were not notified as required by Article 28 of the Regulations, especially given the proximity of the site to Recorded Monuments.

#### 6.1.4.5. Landscape Plan

- The decision of Dun Laoghaire Rathdown County Council is flawed because it requires the full implementation of the proposed landscape plan under Condition No. 2 of the permission, even though a landscape plan was not submitted with the application.

#### 6.1.4.6. Noise

- The assessment of the proposal did not refer to the noise impact of the proposal on the surrounding area. In the absence of this, there is no basis for screening out the proposal for EIA or Appropriate Assessment.
- The proposal will entail significant groundworks, steel cutting and on-site drilling during construction. This is unacceptable given the proximity of the site to residential dwellings.
- A noise impact assessment was not carried out for the operational phase of the proposed development.
- The Appellant has submitted a noise impact assessment prepared by AEON Environmental.
- The AEON report highlights that the location of the proposed development is in an area of low background noise and may therefore be considered as having a high sensitivity to any notable future increase in noise.

- The AEON report concludes that based on recorded ambient noise levels, the proposed development's location meets the most sensitive threshold of significant effects on dwellings from noise.
- The AEON report further concludes that the site meets the criteria for a 'Quiet area', in accordance with the Dun Laoghaire Rathdown County Council Noise Action Plan.
- The nature and level of the existing local sound environment should be maintained.
- Any increase in noise levels would have huge impacts on indigenous wildlife., especially bats and the colony of bee hives currently located on a landholding directly to the north of the site.
- As evidenced on the top of Three Rock Mountain on a windy day, noise is generated off the mast lattice structure/fabric wrapped larger dishes and loose cables.

#### 6.1.4.7. Light

- No assessment was given to the impact of light and light pollution from the proposal on local residents.

#### 6.1.4.8. Health and Safety

- Concerns expressed regarding the possibility of forest fires from the proposal due to electrical faults. A forest fire would quickly engulf adjacent residential dwellings.

#### 6.1.4.9. Supporting documentation lodged with this appeal includes the following:

- Copy of original Application Objection Letter
- Copy of observation Letter in relation to Further Information submitted.
- Noise Monitoring report, prepared by AEON Environmental.
- OS Map of Carty's Green.
- Visual Impact Assessment, prepared by SBLM Architects.
- Archaeological Survey of Ireland Maps.

#### 6.1.4.10. Request for Oral Hearing

6.1.5. SBLM requested an Oral Hearing. The Board decided that there was sufficient written evidence on file to enable an assessment of issues raised, and, therefore, an Oral Hearing should not be held.

### 6.2. **Applicant Response**

6.2.1. The response received from Kevin Gillespie of 4Site Consultants representing the Applicant Virgin Media addressing the issues raised by each of the appellants and are summarised accordingly under the headings below;

6.2.2. **Re. Appeal by Carty's Green Residents Group** - summarised under the headings below:

#### 6.2.2.1. Deficiencies in the Application and Decision

- The Planning Authority determined that the submitted application was valid and concluded that the proposal complies with the relevant policies and objectives of the Dun Laoghaire Rathdown County Council County Development Plan 2016-2022.

#### 6.2.2.2. Land Ownership

- As shown on relevant drawings submitted with the application, the red line denotes the site within the ownership of Petros.
- The letter of consent from the land owner of Petro grants consent to Virgin Media to construct the proposed structure in the event of a grant of permission.
- The blue line shows the lands outside the ownership of the Applicant but within the ownership of Petros.

#### 6.2.2.3. Access to the Site

- Access to the site will be via the road/cul-de-sac off Ballyedmonduff Road and then via the entrance to the site from the access track within the ownership of Petros.

- Post construction, the site will be accessed approx. twice in any one year for maintenance purposes.

#### 6.2.2.4. Broadband Services

- The proposed telecommunication mast will provide improved broadband services to Dublin City Centre, North Dublin from Howth/ Sutton / Baldoyle across to Blanchardstown / Finglas, Inchicore to Rathmines, Ballsbridge, Stillorgan and south to Blackrock, Killiney, Dun Laoghaire, Dalkey and areas in North Wicklow. This includes

#### 6.2.2.5. Power and Cable Connection

- The red line, as detailed in the relevant planning application drawings, denotes the application site of the proposed development.

#### 6.2.2.6. Noise

- The Planning Authority determined that a noise impact assessment was not required.
- The Environmental Health Service, the competent authority in noise, raised no concerns regarding noise from the proposed development.

#### 6.2.2.7. Telecoms Guidelines and Ministerial Letter of 07/2012

- The Planning Authority had due regard to relevant telecommunication structures Guidelines / Plans.
- The Planning Authority concluded that the proposed development complies with the relevant policies and objectives of the Dún Laoghaire-Rathdown County Development Plan 2016 – 2022.

#### 6.2.2.8. Evaluation

- The Board is referred to the Technical Justification for the proposed development.



- Virgin Media have two existing masts on the Blackquarry site. The smaller structures is at maximum structural capacity, and the free-standing lattice mast is at approx. 60%-70% structural capacity.
- To provide High-Capacity Wireless Broadband solutions from the Blackquarry site, Virgin Media apply to ComReg for licenses for each link being erected. Each dish on the tower represents a link to a Virgin Media customer or backhaul services to another Telecoms mast in the region.
- Due to spectrum congestion, all licensed operators on all towers at the Blackquarry site are severely restricted in the services they can offer from the site, as detailed in the table below;

<b>Frequency Band</b>	<b>Status</b>	<b>Comment</b>
13Ghz Band	Officially closed due to congestion	Not open to applications
15GHz Band	Officially closed due to congestion	Not open to applications
18GHz Band	Open for applications	Multiple applications submitted in last 4 Years with 4 licenses awarded*
23GHz Band	Open for applications	Multiple applications submitted in last 4 Years with 3 licenses awarded*
26GHz Band	Open for applications	No frequencies available due to limited spectrum in this band *
28GHz Band	Open for applications	Limited frequencies available due to limited spectrum in this band*
38GHz Band	Open for applications	This band is not suffering the same congestion issue as other bands but range using this band is limited to 3.5km from the site

- In order to improve Virgin Media Wireless Broadband Services in the area, Virgin Media had no choice but to look for a greenfield site outside of the Blackquarry congestion zone. The Virgin Media Radioplanner has determined that the application site is a suitable location from which to provide services.
- If the above bands were not congested and the majority of license applications submitted to Comreg in the last 3-4 years were approved, Virgin Media would be content to continue building on the existing structure rather than investing heavily in a new structure in the area.

- Tree heights are denoted on the relevant planning application drawings.
- The compound is clearly annotated on the relevant planning application drawings.
- The Planning Authority, in its assessment of the visual impact of the proposed development concluded that 'the reduction in height is considered to reduce the visual impact of the mast on the wider landscape... the backdrop is considered to soften the overall impact of the proposed mast, particularly when viewed from a significant distance away... the overall visual impact is considered to be less when compared with the existing nearby masts'.

#### 6.2.2.9. Validity of Application

- The Planning Authority determined that the submitted application is valid.

#### 6.2.2.10. External Statutory Referrals

- The Planning Authority concluded that a referral to Comreg and the Minister for Telecommunications was not required.

### 6.2.3. **Re. Submission of SBLM Architects**

#### 6.2.3.1. Telecommunications Antennae and Support Structures Guidelines (1996) and Dun Laoghaire-Rathdown Development Plan Objectives and Policies

- The Planning Authority considered relevant Government Guidelines in its consideration and assessment of the application, as referred to above.
- The Planning Authority determined that a referral to Comreg and the Minister for Telecommunications was not required.
- 4Site, on behalf of Virgin Media, strongly refutes the assertion by SBLM that the 'Vilicom report is seriously deficient'.
- Vilicom is a noted professional company with longstanding experience and knowledge in providing technical justifications for telecommunications development.

- SBLM assertions are not supported by any factual or evidence-based information to support its assertions.
- The Planning Authority considered the opinions of Mr. Michael O'Cleary. No new issues are raised.
- The visual impact assessments submitted by SBLM to the Planning Authority and the Board are devoid of any information pertaining to the camera equipment and 3D Modelling software used to produce the viewpoint images or any information pertaining to the impact assessment criteria adopted against which its conclusions can be robustly assessed.
- The visual impact assessment submitted by SBLM with the appeal is the same as that submitted to and considered by the Planning Authority. No new issues are raised.
- The Planning Authority, in its assessment, considered that "... the reduction in height is considered to reduce the visual impact of the mast on the wider landscape... the backdrop is considered to soften the overall impact of the proposed mast, particularly when viewed from a significant distance away... the overall visual impact is considered to be less when compared with the existing nearby masts'.

#### 6.2.3.2. Validity of the Original Application

- The Planning Authority considered that the submitted planning application was valid.

#### 6.2.3.3. Condition No 2 of the Granted Planning Application

- The Applicant has no objection to the requirements of Condition No. 2 imposed under the grant of permission.

#### 6.2.3.4. Noise

- As per above, the Planning Authority determined that a noise impact assessment was not required to be submitted, and the Environmental Health Service raised no concerns regarding noise.
- The Applicant confirms the following build program -
- Extent of Works:
  - The duration of works will be approximately six weeks.
  - The site area will be marked out and fenced off temporarily. This will involve erecting Harris type fencing around the boundary perimeter of the new compound.
  - A just-in-time approach will be required for the delivery of materials to site.
- Site Clearance and Construction:
  - i) Install temporary Harris type fencing around the site boundary.
  - ii) Install safety signage.
  - iii) Carry out a detailed services survey of the site to identify all buried services, if any, to determine live services and redundant services. Mark any hot spot areas.
  - iv) Strip the topsoil of the compound and spread around the area and level.
  - v) Mark out the area for the new tower foundation and excavate.
  - vi) Level excavated material around the compound.
  - vii) Install shutters and inspect ground conditions
  - viii) Install steel rebar and template in position. Carry out structural inspection and sign-off pre-pour.
  - ix) Pour the concrete and allow to cure.
  - x) Strike shutter and remove, backfill area with clean stone.
  - xi) Install all associated ducting in the compound and shutters for cabinet plinths.
  - xii) Pour concrete plinths and allow them to cure.
  - xiii) Remove shutters and stone compound with clean stone.
  - xiv) Install green palisade fencing around the perimeter of the compound.
  - xv) Tidy & Clear site.
- ***Lattice Tower Installation***
  - Set up crane beside compound.

- Delivery truck to deliver 8No. off-site assembled sections and lift off via
- crane.
- Via a crane, install the new tower section by section and secure bolts and torque. Remove crane from the site.
- Carry out inspection of the tower and certify.
- Tidy & Clear Site.
- **Working Hours**
  - Working hours will be 08:00 - 17:00 on normal weekdays
  - No work will be undertaken on weekends/Public Holidays.
- The conclusion of the submitted noise report generally focuses upon the representative background sound level of 30 dB during the most sensitive night-time period. However, no work will be undertaken after 17.00 on any weekday. As such, the correct representative background sound level which is relevant to the aforementioned working hours is that of the daytime background sound level, which falls within the range of 28 – 42dB ≥ +5dB having regard to BS4142 i.e. 33dB – 47dB.
- The WHO daytime external amenity guideline is 50 – 55 dB(A). This accords with the threshold desirable low sound level as detailed in the Dún Laoghaire-Rathdown County Council Noise Action Plan.
- The Applicant is content to accept a planning condition requiring the submission of a construction management statement prior to the commencement of works which is subject to the approval of Dún Laoghaire-Rathdown County Council to ensure that the proposal will not give rise to any adverse noise impact to the amenity of residential properties.

#### 6.2.3.5. Light

- The Planning Authority determined that a light impact assessment was not required to be submitted.
- The Environmental Health Service raised no concerns regarding the issue of light.

#### 6.2.3.6. Other Matters Raised

- SBLM's assertions regarding forest fire are made without any foundation or evidence.
- The Applicant has no knowledge during its longstanding experience in the telecommunications sector of any mast/cabin catching fire.

#### 6.2.3.7. Request for an Oral Hearing

- The Applicant is content that by reason of the scale, nature and context of the proposed development, an oral hearing is not warranted and that the Board can determine the appeal on the basis of and having regard to the written representations received from all parties.

#### 6.2.4. **Re. Submission of Mr. Paul O'Kane**

- The Planning Authority determined that the submitted planning application was valid.
- The information submitted was sufficient to enable Dún Laoghaire-Rathdown County Council to fully consider the planning merits of the proposed development.
- Vilicom is a professional organisation/company with longstanding experience and knowledge in providing technical justifications for telecommunications development.

### 6.3. **Planning Authority Response**

#### 6.3.1. The Planning Authority's response is as follows;

- The Board is referred to the previous Planner's Report.
- It is considered that the grounds of appeal do not raise any new matter which, in the opinion of the Planning Authority, would justify a change of attitude to the proposed development.

## 6.4. Observations

6.4.1. A third-party observation was received from Sinéad Nic Gabhann of No. 21 Mather Road South, Mount Merrion, Blackrock, Co. Dublin. The issues raised are summarised as follows;

- The Local Authority made an error in determining that the proposal is consistent with the provisions of the Development Plan and would not detract from the amenities of the area.
- The proposal is contrary to the zoning objective G of the area, which seeks to protect and improve high amenities.
- The proposal would create an ugly structure on an otherwise unspoilt landscape.
- The location of the proposal immediately adjacent to Ticknock Wood would detract from the public amenity of the area. The road beside the proposed development is used by a lot of walkers who access Ticknock Woods.
- Ticknock Woods is a designated Natura 2000 Site.
- The proposed development would have a detrimental impact on the red squirrel population of Ticknock, both in the short and long term. These are protected species under the Habitats Directive and are confined now to just a few locations.
- The proposed development would be contrary to the Dun Laoghaire Rathdown County Council Biodiversity Plan, which recognises the protected status of the red squirrel.
- The Conditions imposed by Planning Authority do not protect red squirrels from exposure to electromagnetic fields.
- The Local Authority made an error in determining that an EIA is not required.
- Concerns expressed regarding the potential for fire hazards to Ticknock Wood as a result of having the proposed structure close to the trees of Ticknock Wood. The Planning Authority failed to impose conditions to prevent a fire hazard or to refuse the proposed development on these grounds.

- The permitted development would create a precedent for similar development in an area of high amenity and the habitat of protected endangered native species which need to be protected.

## 6.5. Further Responses

None

## 7.0 Assessment

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

- Justification for the proposed development
- Visual Amenity
- Noise
- Light and Public Health
- Risk to Protected Birds and Species
- Validation and Procedural Issues
- Environmental Impact Assessment
- Appropriate Assessment

These are addressed under the headings below.

### 7.1. Justification for the proposed development

7.1.1. Submissions received object to the justification of the proposed development. Issues raised are detailed in Section 6.1 above and are summarised as follows:

7.1.2.



- The Technical Justification Report for the proposal, prepared by Vilicom, is deficient and fails to explain how existing telecommunications infrastructure in the vicinity cannot be used to improve the network.
- A number of telecommunications masts in the area can support additional infrastructure.
- The proposal lacks justification, given the Applicant's ability to expand its existing compound, which is located c. 720m from the site.
- The Applicant fails to address replacing its existing towers with taller or higher-specification towers.
- The larger tower in the Applicant's existing compound is lightly loaded and not close to structural capacity.
- The Applicant has failed to provide corroborating evidence from structural/telecommunications engineers or ComReg that the existing towers in the vicinity are "at capacity" or that there are "black spots."
- An adjacent Hibernian Communications Tower (Site ID: MDU053) at Three Rock Quarry is advertising space available on their mast, as evidenced by photos submitted.
- The Applicant has failed to quantify the alleged significant improvement in high-speed broadband services provided by the proposal.
- The ComReg map submitted does not identify the location of the Applicant's existing compound.
- The Technical Justification is non-technical and does not justify anything.

7.1.3. The Planning Authority in its assessment, acknowledges the finding of the Technical Justification Report, prepared by Vilicom, as submitted by the Applicant. The Planning Authority raises no concerns regarding the justification for the proposed telecommunications mast and considers the proposal would provide for the co-location of telecommunications antennae/dishes, reducing the demand for similar supporting structures within the area. The Planning Authority report states that a condition should be attached in the event of a permission grant requiring the Applicant to provide and make available, on reasonable terms, the proposed mast for mobile

telecommunications antennae/dishes of third-party licenced telecommunication operators. However, this Condition was not imposed.

7.1.4. The Applicant contests these grounds of appeal, as detailed in Section 6.2 above. In summary, the Applicant states the proposed telecommunications mast will improve broadband services in the Dublin metropolitan area and north Wicklow. The Applicant, Virgin Media, acknowledges that they already have two masts on the nearby Blackquarry site. The Applicant states that the smaller structure is at maximum structural capacity, while the free-standing lattice mast is at 60%-70% structural capacity. Due to spectrum congestion, all licenced operators on all Blackquarry towers are severely limited in the services they can provide from the site. The Applicant states Virgin Media had no choice but to look for a greenfield site outside of the Blackquarry congestion zone to improve Virgin Media Wireless Broadband Services in the area. Furthermore, the Applicant details how the Virgin Media Radioplanner determined that the application site is a suitable location for service delivery.

7.1.5. The Technical Justification Report submitted with the application was prepared by Vilicom, a telecommunications company accredited by Engineers Ireland and registered and ISO certified with the global certification body NQA. In summary, the Justification Report details the following:

- This site will support broadband communications with transmission dishes and equipment for wireless broadband providers, extending communication technologies to areas with poor/no wireless broadband services.
- The proposed structure will allow broadband providers to expand local networks, improving service to local businesses and homes.
- Existing towers and infrastructure in the area are already at capacity, either structurally or in terms of ComReg licencing.
- The proposed structure is necessary for the future expansion of broadband networks in the area and will enable broadband providers to significantly enhance broadband service throughout most of the Dublin metropolitan area.
- The proposed structure will allow multiple broadband network operators to connect customers to high-speed broadband services.

- Customers will also benefit from increased competition among broadband network operators for high-speed broadband data services, resulting in increased competition among network operators and better options for people in the area.
- Due to site spacing, terrain, structural, and other limitations, broadband network operators can't connect customers in many areas – known as coverage or service blackspots.
- There are existing telecommunications structures nearby, including two Virgin Media towers. These towers, as well as other nearby telecommunications installations, are at capacity, either structurally or in terms of licencing.
- Multiple licence applications at various frequencies were submitted to ComReg for new radio links at this location, but these were denied because installing new radio links would interfere with existing radio links.
- The proposed tower's location was chosen to be geographically distinct from the existing towers while maintaining an elevated position over the target area with a broad line of site coverage. Because it is outside the exclusion zone of the existing towers in the area, this proposed site will remove existing frequency congestion issues.
- Because of the location of existing sites in the area, structural and frequency capacity issues, as well as clutter factors (trees, buildings, cranes), the proposed tower is required to allow broadband operators to continue to provide high-speed broadband services to customers in Dublin.
- Virgin Media has identified the subject site for the purpose of constructing infrastructure that will allow broadband operators to connect customers and deploy improved services in the Dublin Metropolitan area and north Co. Wicklow.
- The nearest telecommunications site is 750m away on Three Rock, and there are numerous other towers nearby.
- The report contains a map depicting the predicted coverage area of the proposed new structure.

7.1.6. The Applicant provides a map that shows and describes five telecommunication mast compounds within 1 km of the site. The Applicant states how Virgin Media owns the closest of these, located 0.76m to the northwest at 'Blackquarry', which contains two

lattice structure masts. A further three lattice structure masts are located 0.75km to 0.92 km west of the site.

- 7.1.7. The Applicant details how at the 'Blackquarry' site, the smaller of the structures is at maximum structural capacity while the free-standing lattice mast is at approx. 60%-70% structural capacity. Furthermore, the Applicant describes how each dish on the tower represents a link to a Virgin Media customer or backhaul services to another Telecoms mast in the region. The Applicant provides a table detailing the frequency bands that can be used for these services and their current status on the Blackquarry site as follows;

<b>Frequency Band</b>	<b>Status</b>	<b>Comment</b>
13Ghz Band	Officially closed due to congestion	Not open to applications
15GHz Band	Officially closed due to congestion	Not open to applications
18GHz Band	Open for applications	Multiple applications submitted in last 4 Years with 4 licenses awarded*
23GHz Band	Open for applications	Multiple applications submitted in last 4 Years with 3 licenses awarded*
26GHz Band	Open for applications	No frequencies available due to limited spectrum in this band *
28GHz Band	Open for applications	Limited frequencies available due to limited spectrum in this band*
38GHz Band	Open for applications	This band is not suffering the same congestion issue as other bands but range using this band is limited to 3.5km from the site

- 7.1.8. As detailed above, the Applicant describes how all licenced operators on all towers on the Blackquarry site are severely limited on what services can be offered from the site due to spectrum congestion. On this basis, the Applicant states how Virgin Media had no alternative but to look for a green field site outside the congestion area of the Blackquarry site.
- 7.1.9. In consideration of the above, it is my view that the Applicant has submitted a reasoned justification for the proposed development in accordance with the requirements of Section 12.9.8 of the Dun Laoghaire Rathdown County Council Development Plan 2022-2028. The stated availability of antennae co-location on the proposed structure would be consistent with Section 4.5 of the Guidelines on Telecommunications Antennae and Support Structures in terms of sharing facilities. The non-availability of other structures within one kilometre of the site is consistent with Section 12.9.8 of the

Dun Laoghaire Rathdown County Council Development Plan 2022-2028, which requires the Applicant to state "reasons why (if not proposed) it is not feasible to share existing facilities having regard to the 'Code of Practice on Sharing of Radio Sites' issued by the Commission of Communications Regulation." Should the Board have concerns regarding the veracity of the data provided by the Vilicom (accredited by Engineers Ireland and registered and ISO certified with NQA), further information should be sought in this regard. Data available on ComReg's online national mobile coverage and blackspot map confirms that Virgin Media and other telecommunications operators have 'fringe' areas of coverage within the Dublin metropolitan area, which is defined as 'marginal or poor data speeds with data disconnections likely to occur'.<sup>1</sup>

7.1.10. Having regard to the above, I consider the Applicant's justification for the proposed telecommunication structure is acceptable and in accordance with Section 12.9.8 of the Dun Laoghaire Rathdown County Council Development Plan 2022-2028. The rationale for the proposed development accords with National Policy Objective 48 of the National Planning Framework - Project Ireland 2040 which seeks to 'develop a stable, innovative and secure digital communications and services infrastructure on an all-island basis'. Furthermore, the proposal would be in accordance with the National Broadband Plan (2020), which seeks to deliver high speed broadband services to all premises in Ireland. I recommend, therefore, the proposed development should not be refused permission on these grounds of appeal.

## 7.2. Visual Amenity

7.2.1. Submissions received object to the proposed development on the grounds of visual amenity. The issues raised are detailed in Section 6.1 above and summarised as follows:

- The visual impact assessment of the proposal is deficient.
- A 'viewshed' has not been submitted.
- The submitted drawings do not include contour lines or datum levels.
- The views in the visual impact assessment are not adequately justified and do not clearly demonstrate the proposal's impact on the surrounding area.

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<sup>1</sup> <https://coveragemap.comreg.ie/map>

- The site is located in a residential area of high visual amenity.
- A tree survey has not been submitted with the application.
- The quality of the photomontages is unacceptable, and their scaling is questionable.
- Table 4.11 of the Development Plan lists 'Prospects to be Preserved'. These include Three Rock Mountain and Two Rock Mountain from the Enniskerry Road and Sandyford Village. Both the visual impact assessment submitted and the Planning Authority failed to give adequate consideration to these 'Prospects to be Preserved'.
- The screening along the northern boundary of the site, as indicated on the Applicant's drawing, does not exist, as evidenced on photographs submitted.
- The forestry along the southern boundary is under the ownership of Coillte and will eventually be felled.
- The proposal would have a significant negative visual impact on the surrounding area.
- The presence of the proposed mast at the entrance to the forestry land would be stark and abrupt.

7.2.2. The Appellant SBLM Architects has submitted a Visual Impact Assessment of the proposal from the surrounding area. The Applicant contests these grounds of appeal, as detailed in Section 6.2 above.

7.2.3. In response to the Significant Further Information submission, the Planning Authority determined that the amended Visual Impact Assessment submitted was a significant improvement over the original submission. Taking into account the proposed mast's height reduction from 32.05 metres to 24.05 metres, as well as the proposed structure's width reduction from 3 metres (base to top) to 3 metres at the base and 2 metres at the top, the Planning Authority consider the revised proposal would significantly reduce the visual impact on the high amenity area. The Planning Authority considers that the proposed mast will have a lower overall visual impact than a nearby cluster of masts located on Three Rock Mountain and south of the Murphy Stone Quarry site, which are larger and more open and visible. The Planning Authority consider that the mature conifer trees to the south, southwest, west, and northwest of the proposed mast would provide a significant visual screen and backdrop for the

proposed structure, and that this backdrop would mitigate the proposed mast's visual impact, especially when viewed from a distance.

- 7.2.4. The site is zoned 'G' with the objective 'To protect and improve high amenity areas'. Public Services are 'Open For Consideration,' as detailed in Table 13.1.5 of the Development Plan, with telecommunications defined as a public service under Section 13.2, which refers to the 'Definition of Use Classes'. On this basis, as per Section 13.1.4 of the Development Plan, the proposal may be permitted subject to compatibility with the overall policies and objectives for the zone.
- 7.2.5. The site is located in Area 9 Barnacullia of the Landscape Character Assessment (Appendix 8) of the Development Plan, which requires that the impact of any additional pylon schemes on the landscape be carefully assessed.
- 7.2.6. Regarding the visual impact of telecommunications structures, Section 12.9.8 of the Development Plan requires the Applicant to demonstrate the visual impact of masts and associated equipment cabinets, security fencing treatment etc. – and the potential for mitigating visual impacts including low and mid – level landscape screening, colouring, or painting of masts and antennae, and to ensure that the proposal will not have a significant negative visual impact. In response to the Planning Authority's request for additional information, the Applicant submitted significant additional information reducing the height of the proposed telecommunications support structure from 32.05m to 24.05m and the width of the proposed structure from 3m (base to top) to 3m at the base, tapering to 2m at the top. The proposed support structure will carry 15 No. link dishes, 3 No. lighting finials and 2 No. outdoor cabinets (2.8m high) all enclosed within a security compound by a 2.4m high palisade fence with a 4m wide access gate. The Applicant states that all the ground-based cabinets, the palisade fence surrounding the compound and the mast will be painted green.
- 7.2.7. In response to the further information request by the Planning Authority , the Applicant submitted a revised Visual Impact Appraisal (VIA), prepared by 4Site Consultants. The VIA provides 11 viewpoints taken at eye level at public viewpoints within the local and wider area. The VIA provides details of the methodology employed, including (inter alia) the make and model of camera and sensor, the method to establish the camera location, level of accuracy location, geographic co-ordinate system used, 3D modelling and rendering software used, source of topographic height data, 3D modelling

employed. For each viewpoint, details are provided of the viewpoint coordinate, bearing/degree towards the site, distance to the site, confirmation of expected view of the site and the date of imagery. The Viewpoint Details Table within the VIA details how the proposed mast would be visible from 8 of the 11 viewpoints. The Further Information response report submitted, prepared by 4Site, provides a table (No. 1) providing additional details regarding these viewpoints including (inter alia) their distance from the site, impact, the sensitivity of the viewpoint (ranging from medium to high) and the impact significance (ranging from imperceptible to slight, moderate and significant). A copy of this table is provided below for the benefit of the Board. Refer to the VIA for existing / expected views of the proposed structure for each viewpoint accordingly. With this regard, the Applicant states that in respect of Viewpoint 2, Viewpoint 8, Viewpoint 9 and Viewpoint 10, where the expected view of the proposed structure is blocked/screened by the existing terrain, a representation of the structure (or the relevant parts of the structure) is shown in red on the respective photomontage in order to demonstrate to the reader that the structure (in full or in part) is not visible from that particular viewpoint.



TABLE 1. VIEWPOINT ANALYSIS: REFER TO PHOTOMONTAGE IMAGES PROVIDED IN APPLICATION DOCUMENTATION

<b>Duration of Impact:</b> Impact is considered to be permanent on the basis that structure will have a lifetime of c.20 years							
<b>Sensitivity of Location:</b> The sensitivity of the site is considered to be medium to high given the scale of development, the context of its setting and the policies in the Development Plan.							
Quality of the impact is described as							
<ul style="list-style-type: none"> <li>Neutral - neither enhance or detract from the visual or landscape character.</li> <li>Positive - improve or enhance the visual or landscape character.</li> <li>Negative - reduce or have an adverse effect on the visual or landscape character.</li> </ul>							
Significance of impacts are described as							
<ul style="list-style-type: none"> <li>Imperceptible – an impact without noticeable consequences.</li> <li>Slight – causing noticeable changes in the visual or landscape character without affecting its sensitivities.</li> <li>Moderate – alters the visual or landscape character in a manner that is consistent with emerging trends or where an important element is affected.</li> <li>Significant – an impact which by its magnitude, duration or intensity alters sensitive aspects of the visual or landscape character.</li> <li>Profound – an impact which obliterates sensitive characteristics</li> </ul>							
Photo No.	Heading degrees	Distance from site	Viewpoint location	Impact	Sensitivity of Viewpoint	Impact Quality	Impact Significance
1	293°	508m	View from public road at Buckley Fireplaces, Ballyedmonduff Road	Medium distance view. Top of proposed structure visible.	High	Negative	Slight
2	340°	762m	View from public road at 86 Ballyedmonduff Road	Medium distance view. Proposed structure not visible due to screening by intervening trees	Medium	Neutral	Imperceptible
3	237°	1074m	View from public road at 7 St Patrick's Park, Stepside	Long distance view. Proposed structure visible but Coillte forest provides backdrop and top of structure is below forest treeline/skyline	High	Neutral	Slight
4	268°	1475m	View from public road at Enniskerry Road	Long distance view. Proposed structure visible but Coillte forest provides backdrop and top of structure is below forest treeline/skyline	Medium	Neutral	Imperceptible
5	289°	1767m	View from public road leading to 2, Glebe House Nursing Home	Long distance view. Proposed structure visible but Coillte forest provides backdrop and top of structure is below forest treeline/skyline	Medium	Neutral	Imperceptible
6	291°	2067m	View from public road opposite 178 Enniskerry Road	Long distance view. Proposed structure visible but Coillte forest provides backdrop and top of structure is below forest treeline/skyline	Medium	Neutral	Imperceptible
7	266°	3004m	View from public road opposite The Walk, Carrickmines Manor/Green	Long distance view. Proposed structure visible but Coillte forest provides backdrop and top of structure is below forest treeline/skyline	Medium	Neutral	Imperceptible
8	262°	99m	View from private road at	Short distance view. Upper part of proposed structure visible but filtered by tree	High	Negative	Moderate
			entrance to 'Petros'	canopy/branches. Compound and lower part of structure not visible because of screening by trees and landform			
9	172°	39m	View from access track in proximity to proposed application site entrance	Short distance view. Proposed structure and compound visible but filtered by tree canopy/branches	High	Negative	Significant
10	92°	100m	View from access track	Short distance view. Proposed structure not visible due to screening by intervening trees	High	Neutral	Imperceptible
11	53°	1576m	View from public road on top of Three Rock	Long distance view. Proposed structure not visible due to screening by mountain top	Medium	Neutral	Imperceptible

- 7.2.8. The Further Information report concludes that the proposed amended design/structure, when viewed from a broader/longer perspective, is expected to have only a minor or, in the worst case, imperceptible visual impact because the existing Coillte forest serves as a backdrop/foreground to the proposed structure and the top of the structure is below the forest treeline/skyline in any event. The report acknowledges that the proposed structure will be visible and will have a significant to moderate impact on the local visual resource in the short term. However, according to the report, the existing mature trees that surround the application site will help to filter any direct views of the structure along the length of the access track from the very localised views. The report contends that, when objectively assessed and balanced against the visual impact on the amenities of the local and wider area, the amended design successfully incorporates and absorbs the structure into this High Amenity Landscape Character Area and rural landscape setting without significant detrimental impacts on the visual amenities of the area.
- 7.2.9. As detailed in the Table above and the VIA submitted, the only viewpoint provided that has a 'significant' impact, is viewpoint no. 9, as viewed from the access track in proximity to the site. The only viewpoint that has a 'moderate' impact is viewpoint no. 8, as viewed from the road near the site entrance to the Petros landholding.
- 7.2.10. The Drawings submitted do not detail the contour levels of the site and surrounding area. According to OS Maps, Two Rock Mountain is 536m O.D. and Three Rock Mountain is 444m O.D. Drawings submitted under P.A. Ref. D05B/0089 for development on the Petros dwelling show that the ground level of the dwelling is c. 301m O.D. The appeal site, as outlined, consists of a level grassed platform located at a higher level to the north-west of the Petros residence. OS contour data shows that the western boundary of the site is c. 320m O.D. Dense mature trees frame the western and south/south-eastern boundary, which slope relatively steeply in a westerly direction towards the summit of Three Rock Mountain. Dense mature trees and vegetation screen the site when viewed from the adjoining track, adjoining the northern boundary. The proposed new 4m wide access gate along the northern boundary requires the removal of 3 no. trees and vegetation at this location. The elevation drawings indicate that the trees along the northern boundary are approximately 21.05 to 21.8 metres above the ground level of the proposed compound, which would

provide a backdrop to the proposed 24.05-meter-tall telecommunications structure. A 2.4m high palisade fence will enclose the compound.

- 7.2.11. Having reviewed the Visual Impact Appraisal and related documentation on file, I am satisfied that the selected viewpoints provide clear views of the site from the surrounding area and that sufficient information is provided regarding the methodology used. The plans submitted provide satisfactory information on trees in the vicinity of the site.
- 7.2.12. Having carried out an inspection of the site and surrounding area, and having regard to (i) the existing / expected photomontages in the Visual Impact Appraisal, (ii) the height and of the proposed telecommunication structure at 24.05m and the 2m base width of the proposed structure, tapering to 2 metres at the top, (iii) that the ground-based cabinets, palisade fence surrounding the compound and the mast will be painted green, (iv) the context of the site which is framed by tall coniferous trees (c. 21m tall) on the rising slope to the west, (v) the ground level of the site at c. 320m O.D. which is significantly below the summit of Three Rock Mountain at 444m O.D., (vi) that the proposed structure would not break the skyline/treeline on Three Rock Mountain from distant views and (vii) the screening provided by the trees along the adjoining track to the north, it is my view that the proposed telecommunications structure would not detract significantly from the visual amenity of the surrounding landscape. Notwithstanding this, given that 3 no. trees are to be removed along the northern boundary to facilitate the proposed new entrance gate, it is my view that in order to mitigate this and provide additional screening of the proposal, a Condition should be imposed in the event of a grant of permission requiring the submission of landscaping plan for the agreement of the Planning Authority, providing appropriate tree planting along the boundaries of the access track serving the compound and north western boundary of the compound to provide further screening.
- 7.2.13. While I acknowledge that the mast will be visible from nearby residential properties and near-distance view locations, I do not consider it an unreasonable intrusion into the local landscape given its strategic role in the provision of public service infrastructure and the local and national policies that support such development. The proposal would not interfere with any preserved prospects or views. I am satisfied that the location, scale and design of the proposed development accords with the recommendation set out under Section 4.3 of the Telecommunications Antennae

Support Structures: Guidelines for Planning Authorities (1996) regarding visual impact. On this basis, I recommend that the proposed development should not be refused permission on these grounds of appeal.

### 7.3. Noise

7.3.1. Submissions received object to the proposed development on the grounds of noise impact. The issues raised are detailed in Section 6.1 above and summarised as follows:

- The noise generated by the mast structure, aerials, and dishes has not been addressed.
- A noise impact assessment was not undertaken.
- The proposal is too close to long-established residences.
- A baseline study should be conducted in order to monitor the daytime and night-time noise levels for surrounding, and adjacent households after the mast is erected and each aerial/dish is installed.
- In the absence of a noise impact assessment by the Planning Authority, the proposal should not have been screened out for Environmental Impact Assessment or Appropriate Assessment.
- The proposal will necessitate extensive groundwork, steel cutting, and on-site drilling during construction. This is unacceptable given the site's proximity to residential dwellings.
- According to the noise monitoring report submitted by the Appellant SBLM Architects Ireland Ltd., the proposed development is located in an area with a low background noise level and, as a result, has a high sensitivity to any significant future increase in noise.
- The noise monitoring report concludes that, based on recorded ambient noise levels, the proposed development's location meets the most sensitive threshold for significant noise effects on dwellings. Furthermore, the noise monitoring report concludes that the site meets the criteria for a 'Quiet area', in accordance with the Dun Laoghaire Rathdown County Council Noise Action Plan.

- The level of the existing local sound environment should be preserved.
- Any increase in noise levels would have a significant impact on indigenous wildlife, particularly bats and a bee hive colony located on a land holding directly to the north of the site.
- As evidenced on the top of Three Rock Mountain on a windy day, noise is generated from the mast lattice structure with its fabric-wrapped larger dishes and loose cables.

7.3.2. The Applicant contests these grounds of appeal, as detailed in Section 6.2 above.

7.3.3. The Planning Authority's assessment of the proposal raised no concerns regarding noise. Similarly, the Senior Environmental Health Officer's report from the Environmental Health Service raised no objections and offered no comment regarding the proposed development.

7.3.4. The closest residential dwelling is 'Petros' is located c. 100m to the south-east of the site. Other residential dwellings in the vicinity include (inter alia) 'Fuscia Lodge' located c. 126m to the east, 'Black Berry Hill' c. 129m to the north-east and 'Anak Kinhta' c. 207m to the south-east.

7.3.5. There are no noise-related recommendations in the Telecommunications Antennas and Support Structures Guidelines for Planning Authorities (1996). Concerns regarding noise during construction can, in my opinion, be dealt with by way of Condition requiring the submission of a Construction Management Plan for the agreement of the Planning Authority detailing, inter alia, the hours of construction and noise management measures to be implemented. Regarding concerns of noise during the operational phase of the proposal, it is my view that the proposed development is not a use associated with noise. However, in order to alleviate the concerns of the appellants, I consider it appropriate that in the event of a grant of permission, a Condition be imposed restricting the noise levels from the proposal so as to prevent annoyance to a person in any residence or public place in the vicinity.

#### 7.4. **Light and Public Safety**

7.4.1. A submission was received objecting to the proposed development on the grounds that the impact of light and light pollution from the proposal on local residents was

not assessed. Concerns are also raised regarding the proposal's potential to cause forest fires due to electrical faults.

- 7.4.2. The Planning Authority, in its assessment of the proposal, raised no concerns regarding the impact light on nearby residents. Similarly, the Senior Environmental Health Officer's report from the Environmental Health Service raised no objections and offered no comment regarding the proposed development.
- 7.4.3. There are no light-related recommendations in the Telecommunications Antennas and Support Structures Guidelines for Planning Authorities (1996). There are no lighting fixtures attached to the proposed mast. In the absence of evidence to demonstrate otherwise, it is my view that the proposed development would not impact the residential amenity of nearby dwellings by way of light pollution / spillage or glare.
- 7.4.4. Regarding the issue of public safety and fire risk, the Telecommunications Antennae and Support Structures Guidelines Circular Letter 07/12 from the DoECH&LG (October 2012) advises that "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". I recommend, therefore, that the proposed development not be refused permission on these grounds of appeal.

## **7.5. Risk to Protected Birds and Species**

- 7.5.1. Submissions received object to the proposed development on the grounds that it would pose a risk to protected birds and species. The issues raised are detailed in Section 6.1 above and summarised as follows:
- The proposed mast represents a collision risk to birds and protected species including Woodstock, Buzzards, Bats and Red Squirrels.
  - Electromagnetic pollution poses a risk to birds and wildlife.
  - The NPWS should have been consulted.
  - A Natura Impact Statement should have been submitted with the application.
  - The screening out of the proposal for EIA or AA was performed in a perfunctory manner.

- 7.5.2. The Applicant contests these grounds of appeal, as detailed in Section 6.2 above. In its assessment, the Planning Authority raised no concerns about the proposal's impact on protected birds or species. In addition, the Planning Authority's screening for Appropriate Assessment concluded that the proposed development would not significantly impact Natura 2000 sites.
- 7.5.3. The nearest Natura 2000 European Sites to the appeal site are the Wicklow Mountains SAC (Site Code: 002122) and the Wicklow Mountains SPA (Site Code: 004040), which are located c. 3.5 km and 4km southwest of the site, respectively. Except for the removal of 3 no. trees and vegetation along the northern boundary, the proposal will not result in a loss of habitat on the site, which is predominantly a grassed area. In the absence of scientific evidence demonstrating the proposed telecommunication structure would pose a collision risk to airborne species such as birds and bats, and given the distance of the site from the closest Natura 2000 European Site, it is my view that the proposed development should not be refused permission on these grounds of appeal. Furthermore, no scientific evidence has been provided to indicate the proposal would have a negative impact on protected species, such as the red squirrel, which is protected under the Irish Wildlife Act of 1976 and the Irish Wildlife Amendment Act of 2000.

## 7.6. Validation and Procedural Issues

- 7.6.1. Submissions received object to the proposed development on the grounds of validations and procedural issues. The issues raised are detailed in Section 6.1 above and summarised as follows:
- The site appears to be outside the registered boundary of 'Petros'. As the application relates to the property 'Petros', the entire landholding should have been outlined in red, and adjacent lands under the same ownership outlined in blue.
  - The Letter of Consent refers only to the appeal site, as outlined in red and blue.
  - The Planning Authority should have invalidated the application due to inadequate drawings and documentation, including the absence of site contour levels, viewsheds of the proposal, construction route access, construction methodology, landscaping, tree survey and land ownership information.

- The Site Location Map does not provide dimensions, and the Cabinet Layout Plan does not indicate the height of the proposed cabins.
- The site notice fails to describe the proposed 15 sq.m. / 3 m high media cabinet.
- The quality of the photomontages in the Visual Impact Appraisal is unacceptable.
- The proposal was not referred to ComReg, the Minister for Communications, An Comhairle Ealaíon, Fáilte Ireland, the Heritage Council, An Taisce, the National Parks and Wildlife Service and Birdwatch Ireland.

7.6.2. Regarding site notices, the public notices submitted in response to the Further Information requested by the Planning Authority describe that proposed '2 No. outdoor cabinets all enclosed within a security compound by a 2.4m high palisade fence'. I am satisfied that the description of the proposed development in the public notices complies with Article 18 of the Planning and Development Regulations 2001 (as amended), which requires 'a brief description of the nature and extent of the development'.

7.6.3. Regarding the stated inadequacy of the drawings and documentation submitted, I consider this is a validation issue, which is the the function of the Planning Authority. In its first report, the Planning Authority concluded that insufficient detail had been submitted to fully determine the proposal, and additional information was requested. The Applicant provided significant additional information in response to this request, which was deemed acceptable to the Planning Authority.

7.6.4. Regarding notification of prescribed bodies, Article 28 of the Planning Regulations requires planning authorities to give notice of valid planning applications to certain prescribed bodies where, in the opinion of the authority, the development would be relevant to the functions of that body. The prescribed bodies notified under the subject appeal included An Chomhairle Ealaíon, An Taisce, Failte Ireland, the Minister for Culture, Heritage and the Gaeltacht and The Heritage Council. Having reviewed the documentation on file, I am satisfied that notification of the other prescribed bodies referred to by the Appellants was not required in this instance.



## 7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the physical separation distances to European Sites, and the absence of ecological and/ or hydrological connections, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## 8.0 Recommendation

- 8.1. I recommend that permission be granted for the proposed development based on the following reasons and considerations.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the provisions of the national and regional policy, the Dún Laoghaire Rathdown County Council County Development Plan 2022-2028, the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities, 1996 and associated Circular Letter PL07/12 and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities or landscape character of the area, or the residential amenities of the area and would assist in the provision of essential telecommunications coverage to the greater Dublin metropolitan area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and with the appeal, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the
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	<p>development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Details of the proposed colour scheme for the telecommunications structure, ancillary structures and suitable fencing to restrict access to the site to authorised personnel shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area and public safety.</p>
3.	<p>The antennae 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 prior grant of planning permission.</p> <p><b>Reason:</b> 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.</p>
4.	<p>Landscaping of the site shall be carried out in accordance with a landscaping scheme which shall include tree planting along the boundaries of the compound, including the access track serving the compound, which shall be submitted to and agreed in writing with planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area.</p>
5.	<p>Noise levels from the proposed development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any residence or public place in the vicinity.</p> <p><b>Reason:</b> In the interests of residential amenity and the proper planning and sustainable development of the area.</p>

6.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of traffic management during the construction phase, including details of road signage, warning the public of the entrance and of proposals for traffic management at the site entrance during construction. Details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste shall also be outlined in this plan.</p> <p><b>Reason:</b> In the interests of public safety and amenity.</p>
7.	<p>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.</p> <p><b>Reason:</b> In the interest of the visual amenities of the area.</p>
8.	<p>Surface water drainage arrangements for the proposed development shall comply with the requirements of the planning authority.</p> <p><b>Reason:</b> In the interest of public health.</p>
9.	<p>The developer shall allow, subject to reasonable terms, other licensed mobile telecommunication operators to co-locate their antennae on the proposed mast.</p> <p><b>Reason:</b> In order to avoid the proliferation of telecommunication structures in the interest of visual amenity.</p>
10.	<p>The proposed mast and all associated antennae, equipment and fencing shall be demolished and removed from site when it is no longer required. The site shall be reinstated to its predevelopment condition at the expense of the developer.</p> <p><b>Reason:</b> In the interest of orderly development.</p>
11.	<p>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.</p>

	<p>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.</p> <p><b>Reason:</b> In the interest of public safety.</p>
12.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.</p> <p>Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>

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Brendan Coyne  
 Planning Inspector

18<sup>th</sup> August 2022