



An  
Bord  
Pleanála

## Inspector's Report ABP317431-23

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<b>Development</b>	Permission to erect a 24 meter high lattice telecommunications support structure
<b>Location</b>	Esker House, Esker Road, Esker, Co. Dublin
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD22A/0445
<b>Applicant(s)</b>	Vantage Towers Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Vantage Towers Limited
<b>Observer(s)</b>	Marian Laffen
<b>Date of Site Inspection</b>	9 <sup>th</sup> November 2023
<b>Inspector</b>	Andrew Hersey

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## 1.0 Site Location and Description

- 1.1. The subject site is located within the landholding associated with Esker House in Lucan. The proposed site for the mast and ancillary structures are to be located in the north west corner of the landholding. The Griffeen River is located the north of the site and there is a public park on the other side of the river to the north and to the west. To east of the park there is a number of suburban housing estates (Esker Glebe) and there are further estates located to the south (Finian's Crescent)
- 1.2. There are mature trees in the immediate vicinity of the site.
- 1.3. Esker House, located to the centre of the landholding, is a large two storey detached house comprising five bays which is rendered externally and is a Protected Structure (Ref: 101). The grounds in the immediate vicinity of the house are laid out in lawns to the front, a walled garden to the north, and a grassed area to the south of the house and outbuildings.

## 2.0 Proposed Development

- 2.1. The proposed development comprises of the following: Permission to
  - Erect a 24 meter high lattice telecommunications support structure
  - together with antennae, dishes and associated telecommunications equipment,
  - all enclosed in security fencing;

### 2.2. Decision

#### 2.2.1. Refuse Permission for the following reasons

1. It is considered that the proposed telecommunications infrastructure by reason of its height, design and siting would result in a visually dominant feature that would have a significant adverse impact on the character, setting, special interest of the Protected Structure Esker House Ref. 101) and its curtilage and therefore would be contrary to Section 12.3.7 (iv), NCBH19 Objectives 1 and 2

of the South Dublin County Development Plan 2022-2028 as well as the proper planning and sustainable development of the area.

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

### **2.3. Planning Authority Reports**

#### **2.3.1. Planning Reports**

- 2.3.1.1. The Planning Officer (dated 30<sup>th</sup> January 2023) recommends a request for further information with respect of a requirement for a Visual Impact Assessment (VIA), a Flood Risk Assessment, and revised plans with respect of the location of the public surface water sewer and a tree survey.
- 2.3.1.2. Further information was received by the planning authority on the 2<sup>nd</sup> May 2023 . Amendments to the proposal comprised of the increase in the height of cabinets around the mast by 1.5 metres which are now proposed to be on an elevated platform. The location of the mast has also varied slightly to accommodate the retention of a tree. This is for the purposes of protection from potential flooding. It is stated that the mast height will remain as is. I note that the proposal was readvertised as significant further information.
- 2.3.1.3. After receipt of further information, the planning officer recommends that the proposed development be refused

#### **2.3.2. Other Technical Reports**

- 2.3.2.1. Water Services (23<sup>rd</sup> January 2022)

- There is an existing 600mm public surface water sewer under the proposed development site
- The proposed development site is located in close proximity to the River Griffen
- Site is located within an area designated as Flood Zone A
- Further information regarding the above issues are required

2.3.2.2. Broadband Officer (14<sup>th</sup> December 2022)

- Raises issues with respect of visual impact, water services and impact of the proposal on trees and tree roots

2.3.2.3. Conservation Architect (22<sup>nd</sup> May 2022)

- It is considered that the proposed telecommunicators support, antennae, dishes and associated equipment and security fencing is not acceptable within the curtilage of a Protected Structure (Esker House RPS Ref. 101). The proposed development is unacceptable by the nature of development and its location which materially affects the character of a Protected Structure and its setting

2.3.2.4. Roads (30<sup>th</sup> January 2023)

- No objection

2.3.2.5. Irish Water (24<sup>th</sup> November 2022)

- No objection

2.3.2.6. TII (15<sup>th</sup> December 2022)

- No observations

2.3.2.7. Irish Aviation Authority (5<sup>th</sup> January 2023)

- Recommends that an obstacle light be positioned on the said mast

## 2.4. Submissions/Observations

2.4.1. There are six submissions on file as follows:

- Marian Laffen (2<sup>nd</sup> May 2023)
- Trisha O'Toole (2<sup>nd</sup> May 2023)
- Michael, Martina and Mark Farmer (2<sup>nd</sup> May 2023)
- Ms Ailish Walsh(2<sup>nd</sup> May 2023)
- Mr. Vinny Crossan (2<sup>nd</sup> May 2023)
- Helen Hughes (2<sup>nd</sup> May 2023)

2.4.2. In summary the issues raised in the submissions relate to:

- Visual Impact
- Health Implications
- That the proposal contravenes the Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities (1996) by reason of its proximity adjacent to a protected structure.
- Misleading information with respect of requirement for a mast at this location

## 3.0 Planning History

3.1. Subject site

- Planning Reg. Ref. SD21A/0066 granted retention permission for pre-school use of single storey annex to the rear of the main house (Esker House Protected Structure)
- Planning Reg. Ref.SD11A/0125 granted permission for change of use an conversion of Esker House and single storey annex to rear to a Retreat House with ancillary accommodation to include works to this protected structure.

## 4.0 Policy and Context

### 4.1. Development Plan – South Dublin County Development Plan 2022-2028

- 4.1.1. The South County Dublin Development Plan 2022-2028 is the relevant County Development Plan for the area.
- 4.1.2. In relation to Information and Communications Technology the overall policy is IE5 to “Promote and facilitate the sustainable development of a high-quality ICT network throughout the County in order to achieve social and economic development, whilst protecting the amenities of urban and rural areas”.
- 4.1.3. IE5 Objective 1: To promote and facilitate the provision of appropriate telecommunications infrastructure, including broadband connectivity and other innovative and advancing technologies within the County in a non-intrusive manner.
- 4.1.4. IE5 Objective 3: To permit telecommunications antennae and support infrastructure throughout the County, subject to high quality design, the protection of sensitive landscapes and visual amenity.
- 4.1.5. IE5 Objective 4: To discourage a proliferation of telecommunication masts in the County and promote and facilitate the sharing of facilities.
- 4.1.6. The site is zoned with the objective OS “To preserve and provide for open space and recreational amenities” in the current **County Development Plan**.
- 4.1.7. Uses which are ‘Open to Consideration’ on lands zoned with Objective OS are:  
Agriculture, Allotments, Bed & Breakfast, Car Park, Cemetery, Childcare Facilities, Community Centre, Cultural Use, Doctor / Dentist, Education, Embassy, Guest House, Home Based Economic Activities, Hotel / Hostel, Place of Worship, Public House, Public Services, Recreational Facility, Residential, Restaurant / Café, Rural Industry-Food, Shop-Local, Sports Club / Facility, Traveller Accommodation.

4.1.8. Appendix 5 of the Plan includes a glossary of terms and **public services** includes a building or part thereof or land used for the provision of public services. Public services include all service installations necessarily required by electricity, gas, telephone, radio, **telecommunications**, television, drainage and other statutory undertakers, it includes public lavatories, public telephone boxes, bus shelters, bring centres, green waste and composting facilities

4.1.9. Policy NCBH19: Protected Structures

- Conserve and protect buildings, structures and sites contained in the Record of Protected Structures and carefully consider any proposals for development that would affect the setting, special character or appearance of a Protected Structure including its historic curtilage, both directly and indirectly.
- NCBH19 Objective 1: To ensure the protection of all structures (or parts of structures) and their immediate surroundings including the curtilage and attendant grounds of structures identified in the Record of Protected Structures.

4.1.10. GI3 Objectives 2

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

4.1.11. GI3 Objectives 3

- To promote and protect native riparian vegetation along all watercourses and ensure that a minimum 10m vegetated riparian buffer from the top of the riverbank is maintained / reinstated along all watercourses within any development site.

4.1.12. Section 12.4.3 Riparian Corridors: The riparian corridors of the County include rivers, streams and other watercourses and are important for water quality as well as providing green infrastructure and biodiversity links, see sections 4.2.2 and 11.3.1 for policy and objectives. Development within or affecting riparian corridors will be required to:



- Ensure that hydromorphological assessments are undertaken where proposed development is within lands which are partially or wholly within the Riparian Corridors identified as part of this Development Plan;
- Demonstrate how the integrity of the riparian corridor can be maintained and enhanced having regard to flood risk management, biodiversity, ecosystem service provision, water quality and hydromorphology;
- Promote and protect native riparian vegetation along all watercourses and ensure that a minimum 10m vegetated riparian buffer from the top of the riverbank is maintained / reinstated along all watercourses within any development site. This is a minimum and should be considered in light of the bullet points above;

## 4.2. National Guidelines

### 4.2.1. Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities (1996)

- These set out current national planning policy in relation to telecommunications structures and address issues relating to, inter alia, site selection; minimising adverse impact; sharing and clustering of facilities; and development control. The Guidelines are generally supportive of the development and maintenance of a high-quality telecommunications service. At 4.3 it is stated that “the visual impact is among the more important considerations which have to be taken into account in arriving at a decision on a particular application. In most cases the applicant will only have limited flexibility as regards location, given the constraints arising from radio planning parameters. Only as a last resort and if the alternatives are either unavailable or unsuitable should free-standing masts be located in a residential area or beside schools. If such a location should become necessary sites already developed for utilities should be considered and masts and antennae should be designed and adapted for the specific location. The support structures should be kept to the minimum height consistent with effective operation and should be monopole (or poles) rather than a latticed tripod or square structure.

#### 4.2.2. Telecommunications Antennae and Support Structures and DoECLG Circular Letter PL07/12

- The 2012 Circular letter set out to revise sections 2.2. to 2.7 of the 1996 Guidelines. The 1996 Guidelines advised that planning authorities should indicate in their development plans any locations where, for various reasons, telecommunications installations would not be favoured or where special conditions would apply and suggested that such locations might include lands whose high amenity value is already recognised in a development plan, protected structures, or sites beside schools. While the policies above are reasonable, there has, however, been a growing trend for the insertion of development plan policies and objectives specifying minimum distances between telecommunications structures from houses and schools, e.g. up to 1km. Such distance requirements, without allowing for flexibility on a case-by-case basis, can make the identification of a site for new infrastructure very difficult. Planning authorities should therefore not include such separation distances as they can inadvertently have a major impact on the roll out of a viable and effective telecommunications network.
- Section 2.6 of the Circular letter refers to Health and Safety Aspects and reiterates the advice of the 1996 Guidelines that planning authorities should not include monitoring arrangements as part of planning permission conditions nor determine planning applications on health grounds. 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.

#### 4.3. Regional Policy

4.3.1. The Regional Spatial and Economic Strategy for the Eastern and Midlands Region includes the following regional planning objectives

4.3.1.1. Communications Networks and Digital Infrastructure **RPO 8.25:** Local authorities shall:

- Support and facilitate delivery of the National Broadband Plan.

- Facilitate enhanced international fibre communications links, including full interconnection between the fibre networks in Northern Ireland and the Republic of Ireland.
- Promote and facilitate the sustainable development of a high-quality ICT network throughout the Region in order to achieve balanced social and economic development, whilst protecting the amenities of urban and rural areas.
- Support the national objective to promote Ireland as a sustainable international destination for ICT infrastructures such as data centres and associated economic activities at appropriate locations.
- Promote Dublin as a demonstrator of 5G information and communication technology.

4.3.1.2. RPO 8.26: The EMRA supports the preparation of planning guidelines to facilitate the efficient roll out and delivery of national broadband.

#### 4.4. **Natural Heritage Designations**

4.4.1. The site is not located within or adjacent to any Natural Heritage Designations nor is there any hydrological link to the same

#### 4.5. **EIA Screening**

Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 5.0 The Appeal

### 5.1. First Party Appeal

5.1.1. A first party appeal prepared by Charterhouse Infrastructure Consultants on behalf of the applicants was lodged on the 23<sup>rd</sup> June 2023.

### 5.2. Grounds of Appeal

- That the proposal would not have a significant adverse impact on the character, setting or special interest of the protected structure - Esker House
- That the proposal would not impact upon the riparian corridor of the adjacent river
- That the mast is strategically located to ensure coverage within a weak area of Dublin. The provision of such coverage is national priority with telecommunications being designated an essential service by Government on the 28<sup>th</sup> March 2020.
- That the site is not located within the curtilage of the protected structure - this is especially the case when considering the alterations/changes that have taken place and that have resulted in a visual change to Esker House and outbuildings
- That the proposed mast will also result in a change but an important change to facilitate the modern world.
- That the mast would not be contrary to NCBH19 of the South Dublin County Development Plan 2022-2028
- That with respect of impact on the riparian corridor of the river the appeal states an ecologist gave advise with respect of the same and stated that the
  - Riverbank will be unaffected
  - Habitat will be unaffected

### 5.3. Planning Authority Response

- None received

## 5.4. Observations

5.4.1. Marian Laffen (on behalf of all parties whom lodged objections to the proposed development received 10<sup>th</sup> July 2023). The observation raises the following issues:

- There will be a visual impact as a consequence of the proposal as the trees will not hide the development all year round.
- That the applicant did not have regard for Planning Reg. Ref. SD22A/0384 which is currently under consideration by the Planning Authority and is located at Esker Lane. If this is permitted then the applicant could share this mast
- That Vodafone reception is not problematic in the area.
- That a pre-school operates within the grounds of Esker House
- Planning Reg. Ref. SD21A/0155 which was a mast within the curtilage of a protected structure has been refused.

## 5.5. Further Responses

- None received

## 6.0 Assessment

### 6.1. Introduction

6.1.1. I am satisfied the substantive issues arising from the grounds of this first party appeal relate to the following matters-

- Principle
- Visual Impact
- Opportunities for co-location
- Impact of the proposal on the River Griffeen.

## 6.2. Principle

- 6.2.1. The proposed development is located on lands zoned as OS in the current **County Development Plan** where it is the objective of the council “To preserve and provide for open space and recreational amenities”
- 6.2.2. Uses which are ‘Open to Consideration’ on lands zoned with Objective OS include for ‘public services’ which is defined in Appendix 5 of the Plan and which includes for Telecommunications Masts.
- 6.2.3. The proposed development comprises of a telecommunications mast and associated infrastructure. With respect of the same I consider that in principle the proposed development is acceptable under this land use zoning objective.
- 6.2.4. The facilitation of telecommunications masts are generally compliant with development plan policy specifically, Policy IE5 Objective 1 which seeks *to promote and facilitate the provision of appropriate telecommunications infrastructure, including broadband connectivity and other innovative and advancing technologies within the County in a non-intrusive manner.*
- 6.2.5. I further consider that the proposed mast is compliant with regional planning objectives and planning guidelines which seek to facilitate telecommunications infrastructure at appropriate locations.

## 6.3. Visual Impact

- 6.3.1. The proposed development site is located in a wooded area in the north western corner of the landholding. The Griffeen River is located directly to the north and a public park is located to the north and west of the location of the proposed mast. There are mature trees and hedgerow along the river.
- 6.3.2. Esker House which is a Protected Structure is located some 60 metres away to the south east. I note photomontages of the proposed mast with respect to its position in relation to Esker House was submitted upon response to further information. Both the case planner and the councils conservation architect in their reports state that the

proposed development would have a visual impact upon the setting of the protected structure and which is located within the curtilage of the said protected structure. There is no doubt from the photomontages submitted that the mast is visible within the setting of the protected structure from several of the viewpoints. I do not however consider that there is a visual impact on the setting of the Protected Structure as it is somewhat removed from the same by some 60 metres. The mast could be located outside of the confines of the landholding and still be visible in the setting of the said protected structure. With respect of the same, I do not consider that the proposed mast will result in a significant impact upon the visual amenities of the area nor will it impact on the setting of the protected structure.

6.3.3. With respect of the above regard has been had to:

- NCBH19 Objective 1: To ensure the protection of all structures (or parts of structures) and their immediate surroundings including the curtilage and attendant grounds of structures identified in the Record of Protected Structures and

As stated above, while it is appreciated that the proposed mast is located within the landholding associated with Esker House, I am of the opinion that the site, which is somewhat removed from the house and associated walled garden, is not located within its curtilage. The mast is located in a corner of the landholding which is well screened by trees from all sides which will aid its integration into the surrounding landscape

#### 6.4. **Opportunities for Co-Location**

6.4.1. Planning Guidance on telecommunications masts in Ireland along with development plan policy specifically Policy IE5 Objective 4 which seeks *To discourage a proliferation of telecommunication masts in the County and promote and facilitate the sharing of facilities.*

6.4.2. The applicant is the details submitted has shown that there is no opportunity for co-location in the surrounding area.

- 6.4.3. I refer to the third party observation on file which refers to Planning Reg. Ref. SD22A/0384 which is an application for a mast at Esker Lane. I note that this was granted permission on the 5<sup>th</sup> October 2023 and therefore the applicant could not have included this in the survey of other masts in the area. I also note that an appeal with respect of the same was not lodged and it is now outside of the appeal period.
- 6.4.4. With respect of the above, regard must be had to this permitted mast which may or may not be constructed by the developer. I also note that there is over 1km between the proposed mast and the mast permitted under SD22A/0348 which is significant. I note that the said mast permitted is a monopole structure of 21 metres as opposed to the 24 metre lattice type structure proposed at Esker House.
- 6.4.5. With respect of the above, I am somewhat reluctant to recommend permitting a mast at a location where there is potential to co-locate with another permitted one 1km from the site without an assessment made with respect to the potential to co-locate with this permitted mast if it is constructed.

## **6.5. Impact of the proposal on the River Griffeen.**

- 6.5.1. I refer to Section 12.4.3 Riparian Corridors of the South Dublin County Development Plan which seeks to protect the riparian corridors of rivers within the county for the purposes of amenity and biodiversity. The section further states that development within or affecting riparian corridors will be required to:
- Ensure that hydromorphological assessments are undertaken where proposed development is within lands which are partially or wholly within the Riparian Corridors identified as part of this Development Plan;
  - Demonstrate how the integrity of the riparian corridor can be maintained and enhanced having regard to flood risk management, biodiversity, ecosystem service provision, water quality and hydromorphology;
  - Promote and protect native riparian vegetation along all watercourses and ensure that a minimum 10m vegetated riparian buffer from the top of the riverbank is maintained / reinstated along all watercourses within any



development site. This is a minimum and should be considered in light of the bullet points above;

- 6.5.2. I note that the concrete platform associated with the proposed mast is only 5.5 metres from the bank of the river which is contrary to the above policy. I also note that a hydromorphological assessment was not undertaken by the applicant.
- 6.5.3. Regard is also had to objectives GI3 Objectives 2 & 3 which seeks to protect riparian corridors and which seeks to ensure that a 10 metre buffer is maintained.
- 6.5.4. On this basis and having regard to the lack of information submitted with respect of this aspect of the proposal it is recommended that permission be refused for the said development.

## 6.6. **Appropriate Assessment Screening**

- 6.6.1. Having regard to the nature and scale of the proposed development, the distance from any European site and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS.

## 7.0 **Recommendation**

I recommend that permission be refused for the following reasons:

## 8.0 **Reasons and Considerations**

1. It is considered proposed development, by reason of its location within the riparian corridor of the River Griffeen and the inadequate separation distance to the river and associated watercourse to the north of the subject site, and having regard to the inadequate details in the form of a hydromorphological assessment of the river and riparian corridor, it is considered that the proposal would fail to protect the integrity of the riparian corridor. The proposed development would therefore be contrary to GI3 Objectives 2 and 3 and Section 12.4.3 of the South Dublin County Development Plan 2022-2028 and be contrary to the proper planning and sustainable development of the area.

2. The Board is not satisfied on the basis of the information submitted with the application that options with respect of co-location with other existing and permitted telecommunications masts in the vicinity of the site have been explored adequately. Having regard to the same the proposed development would be contrary to the provisions of Telecommunications Antennae and Support Structures - Guidelines for Planning Authorities (1996) and Policy IE5 Objective 4 of the South Dublin County Development Plan 2022-2028 which seeks to discourage a proliferation of telecommunication masts in the County and promote and facilitate the sharing of facilities. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way

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Andrew Hersey  
Planning Inspector

11<sup>th</sup> November 2023