



An
Bord
Pleanála

Inspector's Report

ABP-317746-23

Development	Construction of 24m high replacement telecommunication monopole, re-instated floodlights, antennae and dishes, equipment cabinet, fencing and site works.
Location	Balbriggan Rugby Football Club, Inch, Balbriggan, Co Dublin.
Planning Authority	Fingal County Council
Planning Authority Reg. Ref.	F22A/0542
Applicant(s)	On Tower Ireland Limited
Type of Application	Planning Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	On Tower Ireland Limited
Observer(s)	Patrick Hickey Conor Hand & Michelle Carney
Date of Site Inspection	25 th March 2024
Inspector	Tony Ewbanks

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1.0 Site Location and Description.

- 1.1. The appeal site is located within a playing field of the Balbriggan Rugby Club along the Inch Road (L1125) c.1.5km to the south-east of Balbriggan, Co. Dublin and c.430m to the west of Balrothery, Co. Dublin. The rectangular plot of grassed ground measures 45m² in area (10m long x 4.5m wide) and is centred on the floodlight positioned in the south-eastern corner of the playing pitch. The existing 15m high floodlight and pole is one of eight illuminating the pitch. The Club grounds are accessed from a vehicular entrance off the Inch Road (L1125) and unmade stoned access road which leads to a large parking area, the clubhouse and additional floodlit playing pitches to the south and south-west.
- 1.2. The grounds and appeal site are nestled in a flat area between low-lying drumlins to the north-west and south-east. The appeal site sits next to the Club grounds' eastern boundary fencing and planting with the North County Cricket Club grounds. The site's eastern boundary is also defined by a watercourse that flows southwards connecting Inch Lake to the north with Bowhill Lake to the south. To the north-east of the appeal site and club grounds are several detached residential properties located within large, well screened curtilages.

2.0 Proposed Development.

- 2.1 Permission is sought for the removal of an existing 15m floodlighting pole and the construction of a 24m high telecommunication monopole, associated antenna, dishes and steel cabinet enclosure for high speed wireless data and broadband services to be provided by 3 Ireland and an unspecified future operator. The proposed metal cabinet enclosure will measure 5.01m wide x 1.3m deep x 2.6m high and will be set upon an underlying concrete plinth. The enclosure will contain 3no. individual equipment cabinets one of which will be used by 3 Ireland and the remaining two by an unspecified future operator. The application also proposes to reinstall the original floodlighting units onto the proposed telecommunications structure at 15m above existing ground level.

3.0 Planning Authority Decision.

3.1 Decision.

3.1.1 A Notification of Decision to Refuse was issued on the 13th July 2023 citing the following two reasons:

1. *The proposed development is located on lands designated as a Greenbelt which are identified as a High Lying Agriculture landscape character type which are of an high landscape value and sensitivity. The proposed development would conflict with Objective SPQHO102 – Development within the Greenbelts and contravene materially Objective DMSO223 – Location of Telecommunications Based Services of the Fingal Development Plan 2023-2029. It is considered that the proposed structure would constitute an obtrusive and incongruous form of development in the landscape which would seriously injure the visual amenities of the area and would therefore be contrary to the proper planning and sustainable development.*
2. *The applicant has not satisfactorily demonstrated that, having regard to the intended location of the structure, relative to Protected Structures in the vicinity, together with the increase in height envisaged and the lack of appropriate screening at sensitive locations, it is considered that the proposed development would, therefore seriously injure the amenities of the area, would be contrary to Objective HCAO24 of the Fingal Development Plan 2023-2029 and contrary to the proper planning and sustainable development of the area.*

3.2 Planning Authority Reports.

3.2.1 Planning Reports.

- The planning authority's report recommended refusal as set out in Chief Executive Officer's (CEO) Decision Order No. PF/1515/23. No difference in the recommendation or reasons for refusal between the planner's and CEO decisions.

3.2.2 Other Technical Reports.

- Water Services – No objections subject to conditions.

- Transportation – No objections subject to conditions.
- Parks Division – Requested Additional information. No objections to additional information received subject to conditions.
- Environmental Health Officer – No objections subject to conditions.
- Conservation Officer – Requests clarification of Additional Information.

3.3 Prescribed Bodies.

- Irish Water – No objections subject to conditions.

3.4 Third Party Observations.

3.4.1 3no. third party objections were received regarding the following concerns:

- Concerns with respect to the proximity of the proposal to existing dwelling, health implications, increased levels of cancer surrounding a development of this nature, Council recognises the dangers of radiation as its own guidelines preclude such masts in the environment of a school, depreciation of property values and no prior consultation with local residents.
- Proposal's visual impact, obnoxious structure to place in beautiful countryside.
- Potential impacts on wildlife given the site is halfway between Knock Lake and Inch Lake, potential displacement of animals and birds.
- Inaccuracies on submitted documents, drawings do not show all existing dwellings, photomontages show trees and hedgerows in full foliage and do not show all existing dwellings, drawings refer to existing dwelling incorrectly as a clubhouse therefore is not considered part of the application.
- Impacts on built and cultural heritage, proximity to a protected structure and national monument.
- Applicants did not engage in pre-planning consultation with residents.
- Overdevelopment of the lands, rural setting, clubhouse has failed to honour its commitments under previously granted applications.

- No shortage of signal in the area, no evidence provided to explain the need for the tower in this area, no control over who shares this mast.
- Documents submitted in relation to radiation levels are out of date and don't take into account changes in radiation levels due to bad weather, short term exposure as opposed to long term exposure, Council's duty to afford residents a safe and secure environment to live in.
- No justification provided for a commercial/industrial structure within a Green Belt and recreational area.

3.4.2 2no. third party submissions were received in response to the submitted Additional Information raising the following concerns:

- Concern regarding the level of details contained in submitted reports including the ecological report.
- Concern regarding the information submitted in respect to birds and the lack of reference to Curlews which have been observed on site. Supporting images submitted.
- Query the height of the existing lighting pole and the height of the proposed replacement mast.
- Previous concerns reiterated regarding height and visual impact of what effectively is an industrial entity located on Green Belt, sport and recreational zoned land, not in keeping with the area.

4.0 Planning History.

- 4.1 **F21A/0202** – Granted 22.02.22 – Construction of new rugby football pitch with posts, training mound, perimeter footpath and boundary fencing to south of club facility.
- 4.2 **F18A/0714** – Granted 19.03.19 – Alterations to Reg. Ref. F17A/0549 to change from a two to single storey clubhouse with pitched roof.
- 4.3 **F17A/0549** – Granted 12.12.17 – Alterations to Reg. Ref. F16A/0075 to change roof profile from mono-pitch to pitched roof with slates, install rear elevation balcony and fire escape stairs and minor internal alterations

- 4.4 **F16A/0075** – Granted 10.10.16 – Two storey detached clubhouse, waste water treatment unit, percolation area and associated site works
- 4.5 **F12A/0357** – Granted 27.02.13 – Single storey detached clubhouse, waste water treatment unit, percolation area and associated site works.
- 4.6 **F10A/0308** – Granted 19.04.11 – Four all weather pitches and associated lighting masts. Retention of 8no. lighting masts around Pitch No. 2 and temporary changing/meeting rooms, storage buildings.
- 4.7 **F09A/0616 & PL06F.237591** – Granted 02.02.11 – Two storey rugby clubhouse, two storey sports centre, 175no. car park and 55no. overflow car park, backlit signage and associated site development and infrastructure works.
- 4.8 **F08A/0988** – Granted 13.11.08 – 10no. 18m high steel fold down lighting masts around 2no. rugby pitches and 57m² ancillary plant/storage building.

5.0 Policy Context.

5.1 National Guidelines.

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

- 5.1.1 The Guidelines set out a policy framework which ensures a consistent approach by planning authorities in the preparation of their development plans and in determining applications for planning permission. Section 4.1 of the Guidelines states the design and siting of the antennae support structure and equipment will be substantially influence by radio and engineering parameters. It advises on exploring the possibilities of using other available designs where these might be an improvement.
- 5.1.2 With regards to visual impact Section 4.3 notes it is amongst the more important considerations when determining a planning application. Visual impact will vary depending upon location but whatever the general visual context the Guidelines advises that '*... great care will have to be taken when dealing with fragile or sensitive landscapes ...*'. The Guidelines acknowledge that some masts will remain quite

noticeable in spite of best precautions. When determining the extent to which an object is noticeable or intrusive the Guidelines suggest several considerations including local factors such as intermediate objects (buildings or trees), topography, the scale of the object in the wider landscape, the multiplicity of other objects in the wider panorama, the position of the object with respect to the skyline, weather and lighting conditions, etc. Section 4.5 notes sharing of installations will normally reduce the visual impact on the landscape. All applicants will be encouraged to share and will have to satisfy the authority that they have made a reasonable effort to share.

Circular Letter PL 07/12.

- 5.1.3 Circular Letter: PL 07/12 was issued to update the Telecommunications Guidelines (1996) on a number of issues including concerns over health and safety. Paragraph 2.6 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* ...’ which are regulated by other codes and as such need not be additionally regulated through the planning process.

5.2 Development Plan.

Fingal Development Plan 2023-2029.

- 5.2.1 The Fingal Development Plan (FDP) is the operative plan for the appeal site and area.
- 5.2.2 The appeal site is zoned as GB – Green Belt where the principal objective is to ‘... *protect and provide for a Green Belt*’. The zoning’s vision seeks to permanently demarcate the boundary between rural and urban areas, to check unrestricted sprawl and coalescence of urban settlements, to prevent countryside encroachment and to protect the setting of towns and/or villages. The zoning provides opportunities for countryside access and recreation, retaining attractive landscapes, securing lands with a nature conservation interest and lands in agricultural use and directing urban development towards existing urban areas. Telecommunications related development is not identified in the FDP as either a permitted in principle or not permitted use. The list however is not exhaustive and the Plan notes uses which are

not identified as permitted or not permitted will be assessed in terms of their contribution towards the achievement of the applicable zoning objective and vision and compliance and consistency with the policies and objectives of the Development Plan.

- 5.2.3 The appeal site is also located in a High Lying Agricultural Landscape Character Area which is described in Table 9.3 of the FDP as of high landscape value and high landscape sensitivity. It is located c.365m south-west of Inch Mound a recorded national monument (Ref. No. DU005-008), c.250m south-east of the Stephenstown Ring Ditch (Ref. No. DU005-005) and c.435m north of the Gibbonsmoor Ring Ditch (Ref. No. DU005-014). The appeal site is also located c.340m south of Inch House, a protected structure (NIAH Ref. No. 11309001 / RPS Ref. No. 00078) and c.452m west of Balrothery Church (NIAH Ref. No. 11309002 / RPS Ref. No. 00084).
- 5.2.4 The appeal site's is set back c.12m from the rugby grounds' eastern boundary which is defined by a hedgerow, trees and a drainage ditch which connects Inch Lake to the north-east and Bowhill Lake to the south-west. The ditch is designated as an ecological corridor on Green Infrastructure 2 Sheet No. 15 and at risk of a 1% or 1 in 100 year chance of flooding on Green Infrastructure 3 Sheet No. 16. The appeal site's is located c.12m from this boundary outside the area at risk of flooding and the designated ecological corridor. Sections of the Swords-Balbriggan Road (R132) to the south and the local access road to the south-west are designated as a protected view or prospect over Bowhill Lake.
- 5.2.5 Given these circumstances and that the development relates to telecommunications I consider the following policies and objectives to be relevant to the assessment of this appeal:

Objective DMSO1 – Screening for Appropriate Assessment: *Ensure that all plans and projects in the County which could, either individually or in combination with other plans and projects, have a significant effect on a European site or sites are subject to Screening for Appropriate Assessment.*

Objective DMSO17 – Location of New Utility Structures: *Where possible, new utility structures such as electricity substations and telecommunication equipment*

cabinets should not be located adjacent or forward of the front building line of buildings or on areas of open space.

Objective DMSO223 – Location of Telecommunications Based Services:

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

Objective DMSO224 – Applications for Telecommunications Structures:

Require the following information with respect to telecommunications structures at application stage:

- Demonstrate compliance with Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities issued by the Department of the Environment 1996 and Circular Letter PL 07/12 issued by the Department of the Environment and Local Government (as may be amended), and to other publications and material as may be relevant in the circumstances.*
- Demonstrate the significance of the proposed development as part of a national telecommunications network.*
- Indicate on a map, the location of all existing telecommunications structures within a 2 km 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 Regulations.*
- The degree to which 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.*
- Ensure that when such licences are sought nearby property owners and occupiers are made aware of the application prior to Fingal County Council or An Bord Pleanála agreeing the licence.*

Objective DMSO227 – Location of New Utility Structures: *Locate, where possible, new utility structures such as electricity substations and telecommunication equipment cabinets, not adjacent to or forward of the front building line of buildings or on areas of open space.*

Policy CSP44 – Green Belts: *Strengthen green belt lands by identifying opportunities for infill development and consolidation of existing towns and villages to reduce the need to zone additional greenfield lands and ensure the preservation of strategic green belts to avoid coalescence of settlements. Support development within the Green belts which has a demonstrated need for such a location, and which protects and promotes its permanency.*

Objective GINHO40 – Ecological Assessments: *Protect the ecological functions and integrity of the corridors indicated on the Plan Green Infrastructure maps. An ecological assessment may be required for any proposed development likely to have a significant impact on habitats and species of interest in an ecological corridor or stepping-stone.*

Objective GINHO56 – Visual Impact Assessments: *Require any necessary assessments, including visual impact assessments, to be prepared prior to approving development in highly sensitive areas.*

Objective GINHO57 – Development and Landscape: *Ensure development reflects and, where possible, reinforces the distinctiveness and sense of place of the landscape character types, including the retention of important features or characteristics, taking into account the various elements which contribute to their distinctiveness such as geology and landform, habitats, scenic quality, settlement pattern, historic heritage, local vernacular heritage, land-use and tranquillity.*

Objective GINHO58 – Sensitive Areas: *Resist development such as houses, forestry, masts, extractive operations, landfills, caravan parks, and campsites, and large agricultural/horticulture units which would interfere with the character of highly sensitive areas or with a view or prospect of special amenity value, which it is necessary to preserve.*

Objective GINHO59 – Development and Sensitive Areas: *Ensure that new development does not impinge in any significant way on the character, integrity and*

distinctiveness of highly sensitive areas and does not detract from the scenic value of the area. New development in highly sensitive areas shall not be permitted if it:

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

Objective GINHO60 – Protection of Views and Prospects: *Protect views and prospects that contribute to the character of the landscape, particularly those identified in the Development Plan, from inappropriate development.*

Objective GINHO61 – Landscape/Visual Assessment: *Require a Landscape/Visual Assessment to accompany all planning applications for significant proposals that are likely to affect views and prospects.*

Policy GINHP5 – Green Infrastructure Network: *Develop the green infrastructure network to ensure the conservation and enhancement of biodiversity, including the protection of European Sites, the provision of accessible parks, open spaces and recreational facilities (including allotments and community gardens), the sustainable management of water, the maintenance of landscape character including historic landscape character and the protection and enhancement of archaeological and heritage landscapes.*

Policy GINHP8 – Archaeology and Green Infrastructure: *Protect, conserve and enhance landscape, natural, cultural and built heritage features, and support the implementation of the Fingal Heritage Plan in relation to the provision of green infrastructure.*

Policy GINHP9 – Landscape Character: *Ensure green infrastructure provision responds to and reflects landscape character including historic landscape character, conserving, enhancing and augmenting the existing landscapes and townscapes of Fingal which contribute to a distinctive sense of place*

GINHP18 for example seeks to – Species Protection: *The Council will seek to protect rare and threatened species, including species protected by law and their habitats by requiring planning applicants to demonstrate that proposals will not have a significant adverse impact on such species and their habitats.*

Policy GINHP25 – Preservation of Landscape Types: *Ensure the preservation of the uniqueness of a landscape character type by having regard to the character, value and sensitivity of a landscape when determining a planning application.*

Policy GINHP26 – Preservation of Views and Prospects: *Preserve views and prospects and the amenities of places and features of natural beauty or interest including those located within and outside the County.*

Objective HCAO2 – Protection of RMPs/SMRs: *Protect all archaeological sites and monuments, underwater archaeology, and archaeological objects, which are listed in the Record of Monuments and Places, Wreck Inventory of Ireland and all sites and features of archaeological and historic interest discovered subsequent to the publication of the Record of Monuments and Places, and to seek their preservation in situ (or at a minimum, preservation by record) through the planning process.*

Objective HCAO10 – Context of Archaeological Monuments: *Ensure that development within the vicinity of a Recorded Monument or Zone of Archaeological Notification does not seriously detract from the setting of the feature and is sited and designed appropriately.*

Objective HCAO24 – Alteration and Development of Protected Structures and ACAs: *Require proposals for any development, modification, alteration, extension or energy retrofitting affecting a Protected Structure and/or its setting or a building that contributes to the character of an ACA are sensitively sited and designed, are compatible with the special character, and are appropriate in terms of the proposed scale, mass, height, density, architectural treatment, layout, materials, impact on architectural or historic features.*

Objective HCAO25 – Architectural Heritage Impact Statement: *Require an Architectural Heritage Impact Statement as part of the planning documentation for development that has the potential to affect the relationship between the Protected*

Structure and any complex of adjoining associated buildings, designed landscape features, or designed views or vistas from or to the structure. This particularly relates to large landholdings such as country estates, institutional complexes, and industrial sites where groups of structures have a functional connection or historical relationship with the principal building.

Policy HCAP8 – Protection of Architectural Heritage: *Ensure the conservation, management, protection and enhancement of the architectural heritage of Fingal through the designation of Protected Structures and Architectural Conservation Areas, the safeguarding of designed landscapes and historic gardens, and the recognition of structures and elements with no specific statutory designation that contribute positively to the vernacular, industrial, maritime or 20th century heritage of the County.*

Policy HCAP12 – Interventions to Protected Structures: *Ensure that direct or indirect interventions to Protected Structures or adjoining development affecting them are guided by architectural conservation principles so that they are sympathetic, sensitive and appropriate to the special interest, appearance, character, and setting of the Protected Structure and are sensitively scaled and designed.*

Policy IUP36 – Provision of Telecommunications / Digital Connectivity Infrastructure: *Facilitate the coordinated provision of telecommunications / digital connectivity infrastructure at appropriate locations throughout the County and extension of telecommunications infrastructure including broadband connectivity as a means of improving economic competitiveness and enabling more flexible work practices.*

Policy IUP37 – Fingal Digital Strategy: *Develop and support the implementation of the Fingal Digital Strategy 2020–23, to encourage and support communities and businesses to reap the full rewards of a digitally enabled society, including the completed rollout of public Wi-Fi hotspots as set out in the Fingal Public Wi-Fi Roadmap and as part of the WIFI4EU scheme.*

Policy IUP39 – National Broadband Plan: *Support the rollout of high-quality broadband throughout the County and facilitate the delivery of the National*

Broadband Plan and International fibre communications links, including full interconnection between the fibre networks in Northern Ireland and the Republic of Ireland.

Policy IUP40 – Digital Connectivity: *Promote and support the Government’s Strategy Harnessing Digital – the Digital Ireland Framework Feb 2022 and the National Development Plan 2021–2023– National Strategic Objective 6, which relates to enhancing Ireland’s high quality international connectivity.*

Objective IUO48 – High-quality ICT Network and Appropriate Telecommunications Infrastructure: *Promote and facilitate the provision of a high-quality ICT network and appropriate telecommunications infrastructure in accordance with the Fingal Digital Strategy 2020–23 (and any subsequent plan), and to support broadband connectivity and other innovative and advancing technologies within the County, whilst protecting the amenities of urban and rural areas.*

Objective IUO52 – Telecommunications Infrastructure: *Ensure that applications made in relation to the provision of overground telecommunications infrastructure, including planning applications and Section 254 licence applications, take into consideration and demonstrate compliance with the Guidance on the Potential Location of Overground Telecommunications Infrastructure on Public Roads 2015.*

Objective IUO53 – High-quality Design of Telecommunications Infrastructure: *Ensure a high-quality design of masts, towers, antennae and other such telecommunications infrastructure in the interests of visual amenity and the protection of sensitive landscapes in the County.*

Objective SPQHO85 - Visual Impact Statement for Applications in GB or HA Zoned Areas: *Ensure that any planning application for a house within an area which has a Green Belt or High Amenity zoning objective is accompanied by a comprehensive Visual Impact Statement.*

Objective SPQHO102 – Development within the Green Belts: *Promote development within the Greenbelts which has a demonstrated need for such a location, and which protects and promotes the permanency of the Green Belt, and the open and rural character of the area.*

Policy SPQHP58 – Preservation of Greenbelts: *Preserve Green Belts in Fingal in order to safeguard valuable countryside; to ensure that existing urban areas within Fingal do not coalesce to ensure that citizens can enjoy the County's natural amenities and to strengthen and consolidate green belts around key settlements.*

5.3 Natural Heritage Designations.

5.3.1 The appeal site is located c3.08m west of the North West Irish Sea SPA (Site Code: 004236), c.6.76km north-west of the Skerries Islands SPA (Site Code: 004122), c.8.67m west of the Rockabill to Dalkey Island SAC (Site Code: 00300) and c.9.15km west of the Rockabill SPA (Site Code: 004014).

5.4 EIA Screening.

5.4.1 The proposed development is not listed in Schedule 5 (Parts 1 or 2) of the Planning & Development Regulations 2001 (as amended) nor does the proposal meet the requirement for any sub-threshold form of development as outlined in Article 103 of the Regulations. No Environmental Impact Assessment (EIA) is therefore required.

6.0 The Appeal.

6.1 Grounds of Appeal.

6.1.1 The case for appeal can be summarised as follows:

- The appeal site is best suited to provide much needed services in the area being the only location in the search ring submitted with the planning application. Of the nine existing telecommunications sites within 3km of the appeal site the Appellant is present at eight. The appeal argues that this proves the Appellant requires a new site as it would not be looking to invest in the ninth site in the area if it could meet its coverage objectives from its existing eight locations. The appeal includes existing and proposed coverage maps and a table which summarises the reasons why the nine other sites are considered unsuitable.

- The Council did not give due consideration to the built in capacity the development would provide or consider the longer term benefits of reducing future infrastructure needed to meet demand.
- 4G and 5G technologies only have a range of several hundred metres unlike 2G which had a range of up to 10km and could be located miles from their coverage target areas.
- The development will not result in any significant environmental impacts.
- Due to the sheer amount of intervening vegetation and built form as well as the increasing capacity issues in its network as a result of increasing demand in this densely populated residential area for data services means the Appellant cannot meet its wireless broadband and data objectives without the proposed development.
- The site has been sensitively chosen not to directly face any surrounding dwelling and to minimise visual impact. The 24m high mast is the lowest height possible to 'see' over surrounding trees and built form in the area and to transmit/receive clearly. We request the Board recognise the significant challenges to provide service in an area surrounded by ACAs, protected structures, coastal views and protected areas, protected views in the area and so on.
- Given that the area currently in need of network improvement comprises much of Balrothery (population c.2000) which is designated a self-sustaining town in the Fingal Development Plan the Appellant considers it vital that appropriate broadband infrastructure be planned for and supported. The rigorous and extensive analysis carried out as part of the application demonstrates the selected site is not only the optimum solution but complies with the 1996 Telecommunications Guidelines and Objective DMSO223.
- Regarding the first refusal reason the appeal states the development does not conflict with any of the FDP's aims to safeguard a Green Belt. It is an objective of such zoning to safeguard the special character of the County's rural landscape but it is not intended to hinder development or undermine the quality of life of those living in the area. The Planning Authority completely disregarded the sensitive siting and visual impact assessments carried out and have broadly applied the landscape objectives in this case to prevent development. The Appellant has identified a strong

need for this proposal in this area and has carried out full and thorough assessments to ensure it will not impact on the special character of the area. Regarding the appeal site's High Lying Agricultural Landscape Character Area designation we urge the Board to review the submitted photomontages and to satisfy themselves the development will have no barring or impact on the area's characteristics. In demonstrating a need the development is compliant with Objective SPQHO102. The appeal refers to F09A80274 as an example of telecommunications development approved on Green Belt zoned land and F09A/0274 and F11A/0389 as examples of development approved within the High Lying Agricultural landscape Character type. Note must be taken of the absence of any of the areas or points of interest mentioned in the Development Plan's description of

- The High Lying Agricultural Landscape Character Area e.g. Millfort Mound, Mourne Mountains, Wicklow Mountains and Bog of the Ring. Whereas these area/points can be seen from certain areas within the Landscape Character Area it is not true from the proposed site.
- Regarding the second refusal reason the appeal includes a sample of photos and summarised visual impact assessment of the proposed development from selected locations surrounding the appeal site, to the east at Balrothery Church and to the south, south-east and east of Bowhill Lake. It noted Inch House was not public and so argues this view is not commonly accessed by those living or visiting the area and is less sensitive. An elevated image taken by a drone at 24m elevation from the appeal site towards Inch House. The appeal suggests that as a consequence of the extensive natural screening between the two sites and undulating landscape it is expected the proposed development will be predominately screened. The development is not expected to be visible from the protected Balrothery Church c.452m to the east or from Bowhill Lake where abundant natural vegetation screens the majority of the proposal in high summer and spring seasons giving way to increased visibility during winter seasons. It is hoped the Board is satisfied by the evidence submitted and will agree that the development will not result in any undue negative impacts, more specifically to the siting of protected structures nearby and is compliant with Objective HCAO24.

- The appeal includes a RF Technical Justification Report which includes maps illustrating the extent of service coverage in the area as evidence that there is a need for an installation at the appeal site to provide high quality 4G/5G network coverage and deliver good customer experience in Balbriggan, Balrothery and the wider area.
- The appeal includes an Ecological Impact Assessment (EclA) Report which carried out desk top and field surveys to identify the presence or otherwise of floral and faunal species within the appeal site. This baseline information was then used to consider the scope of potential effects and disturbances upon the appeal site and downstream areas. The report concluded the development would have a localised impact to habitats under the footprint of proposed works but that these improved amenity grassland and built land habitat types were of low botanical diversity and did not support species recognised or classified as rare or restricted.
- The appeal includes a Stage 1 Appropriate Assessment Screening Report which concluded the construction and operation of the proposed development was unlikely to have any significant impact on any European site due to the remote location of the site and the scale of the proposed development.
- The appeal includes two Photomontage reports dated 14th September 2022 and 14th June 2023. The 2023 report updated the 2022 report with a total of twelve existing viewpoints and proposed photomontages from various locations and distances to the appeal site.
- The appeal includes a Cultural Heritage Impact Assessment report in referencing various historical sources and previous investigations describing the archaeological and historical context of the appeal site and surrounding countryside. The report identifies archaeological sites, protected structures and Architectural Conservation Area in the area and concludes there is limited potentiality of surface archaeology within the rugby grounds and that existing floodlighting and boundary trees will screen all but the top of the proposed mast resulting in a negligible visual impact upon Inch House, Balrothery Church or the setting and character of the historic village.
- The appeal includes a Planning Statement which, in citing national, regional and local planning advice, guidelines, policies and objectives, argues the proposed

development in the absence of any significant harm to the appeal site or its surroundings is compliant and supported by policy at national and local levels.

6.2 Planning Authority Response.

- No further comment. Requests decision to refuse is upheld. In the event of an approval requests a financial contribution be applied in accordance with the Council's Section 48 Development Contribution Scheme.

6.3 Observations.

6.3.1 Two observations were received and are summarised as follows:

Patrick Hickey.

- Applicant seeks development in a Green Belt Area as an exemption to planning law that restricts other land owners.
- Submitted plans omit Inch House and Inch Mound both of which are one field from the application site.
- I reaffirm my earlier objections. Attached to my Additional Information objection were photos of Curlews on site. To encourage them to stay and breed we have planted over 1000 trees and native pollinators in our field across from the Rugby Club. We have seen the return of Buzzards and Storks breed in the trees surrounding Inch Lake. We are building owl boxes for a resident Barn Owl. The application never mentioned Curlews which is a worry. It is important that the wildlife corridor between Knock and Inch Lakes is maintained.
- The site was sold to the Rugby Club as sports grounds and within a Green Belt area should not be used for commercial gain.
- I would have to endure an ugly and overpoweringly dominant mast visible from my living room, conservatory and garden.
- The need for the mast has not been proven. Residents of Inch Road have 2 gigabits of broadband and an alternative provider is already mounted at Knockbrack Hill.

Conor Hand & Michelle Carney.

- The previous application failed for being visually prominent potentially impacting residential dwellings. The mast being located 160m from our house will directly impact us. The existing 15m high floodlights have been tolerated as they are necessary for the Rugby Club and are not in place for any commercial benefit. We have no wish to have the proposed mast located 160m and in clear view from our back patio.
- The presence of 15m high floodlighting on site does not set a precedent for a 24m high mast.
- The submitted photomontages do not take into account the mast's visibility from our property. The mast would be visible from Inch House and Inch Mound. The photomontages were taken when hedging and trees were in full foliage. The photomontages were taken from angles which excluded key features such as dwellings, Inch House and the Mound Concerns are cited against photomontage VP1 to VP5 inclusive.
- No mention was made of the prevalence of Curlews on site.
- The proposed mast will be located within a nature/ecological corridor linking Bowhill and Inch Lakes.
- We contest the appeal's description of the mast's height as a modest increase. An increase from 15m to 24m is higher than the apex of our house.

6.4 Further Responses.

6.4.1 None.

7.0 Assessment.

7.1 Having reviewed the grounds for appeal, the County Council's assessment of F22A/05420001 and the submitted third party Observations I consider the following issues to be material to the assessment of this appeal.

Justification for the Proposed Development.

- 7.2 I note the extent of national, regional and local guidelines and planning policies which support, in principle, the provision of high speed broadband and telecommunications infrastructure and services including NPO 48 of the National Planning Framework and RPO 8.25 of the Eastern & Midland Regional Assembly's Regional Spatial & Economic Strategy (2019-2031). I also note Sections 11.8, 14.4.9 and 14.20.11.1 of the FDP on Information and Communications Technology (ICT) and Utility Facilities and associated policies and objectives such as IUP36, IUP37, IUP39, IUP40, IUO48 and IUO52. Whereas the proposal may be considered acceptable in principle the extent of development and the particulars and characteristics of the appeal site, such as its zoning and other designations, requires careful consideration of other no less relevant and materially important planning policies and objectives.
- 7.3 Justification for the selection of the appeal site over other potential alternatives is grounded in the RF Technical Justification Report and the appeal statement. There are a number of issues I would draw the Board's attention to regarding the information presented at appeal and ensuing concerns regarding the thoroughness of the sequential assessment and the subsequent conclusion that the appeal site is optimum location for the proposed development. For example Objective DMSO224 requires a map illustrating the location of all existing telecommunications structures within a 2km radius of the proposed development site. Whereas the appeal includes a table which summarises the reasons why the nine existing telecommunications sites in the surrounding area are unsuitable it, nor the submitted RF Technical Justification Report do not include such a map.
- 7.4 When considering alternative locations for the proposed development the appeal focused on the nine pre-existing sites within the surrounding area. The sequential site selection process did not consider alternative locations where no mast was present but which could provide the same level of coverage as the proposed development and the appeal site. I am of the opinion such an omission is a significant shortcoming in justifying the selection of the appeal site over others which may not share the same zoning and designations. In dismissing eight of the nine alternative locations where the Applicant currently operates from the assessment did

not indicate if these sites already provided 4G and 5G service coverage and, if not, consider the suitability of such existing facilities being upgraded.

- 7.5 The appeal references planning applications F09A/0274 and F11A/0389 as examples of development approved within Green Belt zoned lands and the High Lying Agricultural Landscape Character area. The Board will be cognisant that each application for planning permission must be assessed on its own planning merits against applicable guidance and policies applicable of the time. Consequently I am of the opinion that the local authority's previous decisions should not have any material bearing on the assessment of this appeal.

Potential Visual Impacts on Receiving Environs.

- 7.6 The appeal site is located in countryside that is of particular visual sensitivity which is reflected in the appeal site's GB – Green Belt zoning, High Lying Agricultural Landscape Character type and protected views to the south and south-west of the appeal site. In each regard the FDP sets out planning policies and objectives designed to protect such areas. Section 3.5.15.12 outlines the Green Belt zoning will safeguard the innate rural value, identity and unique character of the Fingal countryside. Section 9.6.14 notes the Development Plan's Landscape Character Assessment joins generic areas of distinctive character making one landscape different from another. Section 9.6.15 of the FDP refers to the County's many vantage points from which views and prospects of great natural beauty may be obtained over both seascape and rural landscape. The protection of this asset is outlined as being of primary importance. As is the need to protect and conserve views and prospects. The FDP notes in assessing views and prospects it is not proposed that development along these routes should be prohibited but that, where permitted, it '*... should not hinder or obstruct these views and prospects and should be designed and located to minimise their impact*'.
- 7.7 The appeal states notice should be taken that none of the areas or points of interest (e.g. Millfort Mound, Mourne Mountains, Wicklow Mountains and Bog of the Ring) mentioned in the High Lying Agricultural Landscape Character Area. The FDP does not distinguish or apply greater or lesser value on different locations within the same

Landscape Character Area. I find no reason that would justify or allow for the appeal site to be considered of any lesser value or importance than the rest of the same Character Area.

- 7.8 The appeal also states the proposed development '*... seeks to provide a modest height increase, vertical extension to an existing structure in this area ...*' and '*... is not an alien object unusual in this environment rather, it should be viewed as a modest change in the baseline condition here*'. In my opinion such statements are inaccurate and misleading. It ignores the fact that the proposal is not increasing but replacing the existing 15m high floodlighting column and lighting fixture with structures of considerable physical and visual difference. It also conspicuously ignores the overall increase in height of 9m / 29.52ft from 15m to 24m and also the significantly larger massing, bulk and general appearance of the new mast, antennae, dishes, equipment cabinets etc.
- 7.9 In accordance with Objective GINHO61 the appeal includes a visual assessment and series of photomontages. The Board's attention is drawn however to discrepancies between the viewpoint (VP) reference numbers used in appeal statement to those used in either photomontage report. For example the appeal describes VP1 as 'L1225, north of the proposed site with regard to Inch House'. On both photomontage reports VP1 is located on the secondary access road to the west of the appeal site. VP3 is described in the appeal as 'Bowhill Lake, southwest of the proposed site'. In both photomontage reports VP3 is located on the Inch Road next to the rugby club's entrance. Such asynchrony between appeal documents impedes a proper, thorough and reliable visual assessment and the veracity of the respective conclusions.
- 7.10 Furthermore the appeal selected five of the twelve VPs identified in the photomontages report as they were considered likely to show the greatest amount of visibility and impact. Such purposeful selection undermines, in my opinion, the thoroughness and reliability that could have been derived from additional assessment from other VPs.
- 7.11 I note only two VPs were selected along the local access road to the west of Bowhill Lake and the appeal site which connects the Swords-Balbriggan Road (R132) and the Inch Road (L1125). The southern portion of this local access road is designated a protected view overlooking the Lake with the appeal site in the background. There

are several places along this stretch of road where roadside planting is low and/or missing affording unfettered views of Bowhill Lake and the appeal site which have not been accounted for in the submitted photomontages or visually assessed in the submitted appeal. Furthermore I also note the third party Observer's comment that the photomontages were taken at a time when vegetation was in full foliage providing the maximum degree of screening. Section 2.62 of the appeal concedes increased visibility of the proposal will occur during winter when tree and leaf cover falls naturally. The submitted photomontages effectively only illustrate for half the year when maximum screening is available. In failing to fully illustrate and assess how the development would interface with the surrounding rural landscape, Green Belt and highly valuable and sensitive Landscape Character Area for the entire year I am concerned the development would introduce a visually prominent and physically incongruous and domineering form of structure that would not be incompatible with the proper planning or sustainable development of the area. In this respect the proposed development is considered in breach of Policies GINHP5, GINHP9, GINHP26 and Objective GINHO60 and should be refused.

Potential Impacts on Green Belt and Landscape Character Area.

- 7.12 The appeal site is located in land zoned GB – Green Belt and within the High Ling Agricultural Landscape Character Area which is identified in Table 9.3 of the FDP as of high landscape value and sensitivity. It is the objective of the appeal site's zoning to protect and provide for a Green Belt and in addition to permanently demarcating the boundary between urban and rural areas it seeks, in part, to retain attractive landscapes. The appeal has described the surrounding area as densely populated and makes reference to the urban form which is clearly applicable to settlements such as Balrothery and Balbriggan but which does not apply to the appeal site or the fact it is zoned Green Belt and recognised as a landscape of high value and sensitivity. The appeal states the proposed development '*... seeks to provide a modest height increase, vertical extension to an existing structure in this area ...*' and '*... is not an alien object unusual in this environment rather, it should be viewed as a modest change in the baseline condition here*'. In my opinion such statements are inaccurate and misleading with context of the material change in appearance,

massing and bulk between the existing 15m high floodlighting column and lighting fixture and proposed 25m mast, antennae, dishes and equipment cabinets.

- 7.13 In determining the development would likely be physically and visually prominent within the surrounding rural landscape by virtue of its scale, nature and location the proposal will have an intrinsic and associated detrimental effect upon the unique character and identity of the County's Green Belt as set out in Section 3.5.15.12 of the FDP. The appeal notes Policy CSP44 and Objective SPQHO102 supports development within green belts which have a demonstrated need for such a location. However Policy CSP44 and Objective SPQHO102 qualify such support with the requirement that development protects and promotes the permanency, openness and rural character of the Green Belt. In this respect I consider the proposed development to be a physically incongruous and visually discordant structure that is contrary to Policy CSP44 and Objective SPQHO102. Moreover the appeal site is located in an open and exposed part of the rugby grounds that is contrary to Objectives DMSO17 and DMSO227 and, in my opinion, would neither safeguard the open and rural character of this valuable area countryside as required under Policy SPQHP58 and Objectives SPHO101 and SPHO102 or the fragile and highly sensitive landscape which Objective DMSO223 seeks to preserve. A grant of planning permission would set an undesirable precedent for similar inappropriate development in the Green Belt that would incrementally erode the integrity of the Green Belt zoning and the landscape value and visual qualities of the High Lying Agricultural Landscape Character Area.

Potential Impacts on Protected Structures & National Monuments.

- 7.14 The Cultural Heritage Impact Assessment submitted with the appeal and in accordance with Objective HCAO25 indicates there are a number of protected structures and recorded monuments within 1km of the appeal site. Of interest to this appeal are Inch House (NIAH Ref. No. 11309001 / RPS Ref. No. 00078) which is located c.340m to the north, Balrothery Church (NIAH Ref. No. 11309002 / RPS Ref. No. 00084) located c.452m to the east, Inch Mound (Ref. No. DU005-008) c.250m to the north-east and Gibbonsmoor Ring Ditch (Ref. No. DU005-014) and

Stephenstown Ring Ditch (Ref. No. DU005-005) to the south and south-east respectively.

- 7.15 Chapter 10 of the FDP outlines in detail the importance of Fingal's architectural and archaeological heritage to its historic and cultural diversity and identity. I note the aims of Sections 10.5.1 and 10.5.2 in this regard, in particular Policy GINHP8 and Objectives HCAO2 HCAO7 and HCAO10.
- 7.16 I am satisfied that the proposed development is unlikely to adversely impact the historic character or setting of Balrothery Church, Gibbonsmoor Ring Ditch or Stephenstown Ring Ditch given the intervening distances, topography and natural vegetation. The development.
- 7.17 The Cultural Heritage Report references the three surrounding ring ditches/forts but does provides no assessment of how the proposed development may affect them. The appeal site is visible from the elevated Inch Mound and vice versa. The lack of consideration of how the physically and visually prominent development proposal could potentially affect the context of this archaeological monument as required under Objective HCAO10. I note the comments made by third party Observers in this regard and do not consider the appeal has satisfactorily established how, or indeed if, the development will detract, diminish or otherwise detrimentally affect the surrounding area's cultural heritage in general or Inch Mound in particular. In this respect I consider the proposed development to be contrary to Policy GINHP8 and Objectives HCAO2 and HCAO10.
- 7.18 The Cultural Heritage Assessment report concludes the proposed development will not adversely impact Inch House based on existing vegetation. The report includes a photo from which the appeal site looking towards Inch House. The appeal includes similar images in Figures 13 and 14 and an elevated drone image (Figure 15) and suggests as Inch House is extensively screening by the natural vegetation between sites and undulating landscape the potential effect upon the protected structure is expected to be negligible. I note the County Councils Conservation Officer's comments and the need to not only assess how a protected structure may be viewed from the appeal site but how the development may be viewed from the protected structure. The appeal concedes no images were taken of the appeal site from Inch House as it was privately owned and in not being accessible to the public was

considered less sensitive. The appeal, in my opinion, incorrectly assumes that the view from the appeal site is the same from Inch House. Such an assumption also does not account for how visible either site would be during autumn and winter months when the intervening vegetation is without foliage – a point which is conceded in Section 2.62 of the appeal. I do not consider the appeal has satisfactorily established the proposed development will not detract, diminish or otherwise adversely impact upon the special interest, appearance, historic character and setting and special architectural and artistic interest of this regionally important protected structure. In this regard the proposed development is contrary to Policies HCAP8 and HCAP12 and Objectives HCAO24 and HCAO25.

Potential Impacts on Wildlife.

- 7.19 One of the submitted third party Observations noted the ecological designation of the drainage ditch running along the rugby grounds' eastern boundary suggesting the development had failed to consider its potential effect upon this environmental feature. I note Section 9.6.8 of the FDP acknowledges the importance ecological corridors play in biodiversity and calls for a minimum 10m wide riparian buffer be applied along small streams and drains. I also note the EclA's assessment of this habitat type and floral/faunal species within. As the appeal site sits outside this minimum buffer zone and also the area indicated on Green Infrastructure 3 Sheet No. 16 as being prone to a 1 in 100 year (1%) pluvial flooding event I am satisfied there is no policy basis for considering this issue further.
- 7.20 The Observation includes images of Curlews photographed within the rugby grounds as evidence of their regular visitation and/or use of the site. BirdWatch Ireland (<https://birdwatchireland.ie/birds/curlew/>) describes the Curlew as an over-wintering species in decline nesting on the ground in rough pastures, meadows and heather in a wide range of coastal and inland wetland habitats and damp fields. The National Parks & Wildlife Service (www.npws.ie) notes the Curlew is a red-listed species under the Birds of Conservation Concern in Ireland and is Ireland's only species on the IUCN red list of endangered species.

- 7.21 Section 9.6 of FDP describes Fingal's rich biodiversity and natural heritage. It sets out planning policies aimed at protecting and preserving habitats and species. Policy GINHP18 for example seeks to protect rare and threatened species, including species protected by law and their habitats by requiring planning applicants to demonstrate that proposals will not have significant adverse impacts. The appeal includes an Ecological Impact Assessment (EclA) report which concluded the development would have only a localised effect upon the area occupied by the appeal site which was of low biodiversity value.
- 7.22 The third party Observation outlines Curlews regularly visit the appeal site but was unclear if it was for breeding, foraging or nesting purposes. The EclA is unclear how many walkover surveys were carried out in December 2022. It is noted that Curlews were not surveyed nor are mentioned in the EclA report. The highly modified and managed nature of the rugby grounds is not conducive to the foraging or nesting needs of the Curlew. Given the frequency with which the rugby grounds are used for sporting activities it is not likely that the photographed birds were transient and the loss of a 45m² of grassland would not materially affect their overall viability.

Potential Impacts on Residential Amenities.

- 7.23 I note the concerns outlined in the submitted third party observations regarding the potential effect the development will have upon the setting and amenities of adjoining residential properties. Circular Letter 07/12 precludes concerns regarding health and safety from being of material consideration. The development is in a location and of sufficient separation distance to adjoining properties not to materially overbear or overshadow resulting in a loss of residential amenities. Whilst the proposal may be visible from neighbour's home, gardens and patios the planning process does not protect a right to a view. I am satisfied the proposed development will not detrimental affect the residential amenities of adjoining properties.

Appropriate Assessment.

- 7.24 The appeal site is located c3.08m west of the North West Irish Sea SPA (Site Code: 004236), c.6.76km north-west of the Skerries Islands SPA (Site Code: 004122),

c.8.67m west of the Rockabill to Dalkey Island SAC (Site Code: 00300) and c.9.15km west of the Rockabill SPA (Site Code: 004014). An Appropriate Assessment Screening report was submitted with the planning application and resubmitted with the appeal in compliance with Objective DMSO1. I am satisfied with the report's findings that the proposed development, either alone or in combination with other plan or project, is likely to give rise to a significant effect upon any European site. As such further Appropriate Assessment is unnecessary.

8.0 Recommendation.

- 8.1 Having regard to the above it is recommended that permission be refused for the proposed development based on the following reasons and considerations.

9.0 Reasons and Considerations.

1. The proposed development is located on lands designated as a Greenbelt which are identified as a High Lying Agriculture landscape character type which are of an high landscape value and sensitivity. The proposed development would conflict with Policies CSP44, GINHP5, GINHP9, GINHP26 and SPQHP58 and Objectives DMSO17, DMSO223, DMSO227, GINHO60, GINHO223, SPQHP101 and SPQHO102 of the Fingal Development Plan 2023-2029. It is considered that the proposed structure would constitute an obtrusive and incongruous form of development in the landscape which would seriously injure the visual amenities of the area and would therefore be contrary to the proper planning and sustainable development.
2. The applicant has not satisfactorily demonstrated that, having regard to the intended location, massing and scale of the proposed development, relative to Inch House (NIAH Ref. No. 11309001 / RPS Ref. No. 00078) and Inch Mound (Ref. No. DU005-008), together with the proposal's increased height and bulk and significant change of appearance and the seasonal nature of intervening boundary screening vegetation, it is considered that the proposed development would, therefore seriously injure the amenities of the area, would be contrary to Policy GINHP8 and Objectives

HCAO2, HCAO7, HCAO10, HCAO24 and HCAO25 of the Fingal Development Plan 2023-2029 and 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.

Tony Ewbanks
Planning Inspector

24th March 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317746-23		
Proposed Development Summary	Construction of 24m high replacement telecommunication monopole, re-instated floodlights, antennae and dishes, equipment cabinet, fencing and site works.		
Development Address	Balbriggan Rugby Football Club, Inch, Balbriggan, Co Dublin.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No X	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	X	N/A	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____