
Appeal Reference:	2022/A0098.
Appeal by:	Hutchison 3G UK Ltd.
Appeal against:	The refusal of full planning permission.
Proposal:	Proposed telecommunications installation: Proposed Phase 8, 15m Monopole C/W wraparound cabinet at base and associated ancillary works.
Location:	On footpath opposite 153 Cromac Street, Belfast BT7 1DX
Planning Authority:	Belfast City Council.
Application Reference:	LA04/2020/1658/F
Procedure:	Written representations with Commissioner's site visit on 31 July 2024.
Decision by:	Commissioner Mandy Jones, dated 2 August 2024.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 9 August 2022, Belfast City Council refused planning permission for a proposed telecommunications installation : Proposed Phase 8, 15m Monopole C/W wraparound cabinet at base and associated ancillary works as it was contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), and Planning Policy Statement 10 (PPS 10) Telecommunications.
3. Following the adoption of the Belfast Local Development Plan: Plan Strategy 2035 (PS) on 2 May 2023, the Commission wrote to the parties to invite comments in respect of the newly adopted PS, in so far as it applied to the appeal proposal. The Council returned comments.
4. Since the adoption of the PS, previously retained policies set out in the suite of regional Planning Policy Statements (PPS's), including the PPS 10, have now ceased to have effect within this Council area.
5. The Council's revised reasons for refusal are as follows:

' The proposal is contrary to the Belfast Local Development Plan: Plan Strategy 2035, Policy ITU 1 (Telecommunications development), the Strategic Planning Policy Statement and relevant guidance within DCAN 14 in that the proposal, if approved, will result in unacceptable damage to the visual amenity of the area by way of its height, location, prominence and resulting clutter '

'The proposal is contrary to the Belfast Local Development Plan: Plan Strategy 2035, Policy ITU 1 (Telecommunications development) and the Strategic Planning Policy Statement as the applicant has failed to demonstrate that the proposal has been sited and designed to minimise visual and environmental impact and that the mast could not have been located in a more suitable and less visually intrusive location.'

6. Policy ITU 1 of the PS relates to Telecommunications Development in cases such as the appeal proposal. Criterion (c) requires that telecommunications proposals will not result in unacceptable damage to visual amenity or harm to environmentally sensitive features or locations or heritage features. This criterion reflects Policy TEL 1 of PPS 10, Control of Telecommunications Development which requires that proposals for telecommunications development will not result in unacceptable damage to visual amenity on which the Council's first reason for refusal was based.
7. Policy ITU 1 of the PS also states that developers will be required to demonstrate that proposals for telecommunications development have regard to technical and operational constraints and have been sited and designed to minimise visual and environmental impact. This also reflects Policy TEL 1 of PPS 10, on which the Council's second reason for refusal was based.
8. As such, I consider that no prejudice would arise to either party due to the Council's updated position. This appeal is therefore assessed having regard to the updated policy context as provided by Policy ITU 1 of the PS.

Reasoning

9. The main issues in this appeal are whether the appeal proposal would result in unacceptable damage to visual amenity.
10. As referred to above, Belfast City Council adopted its PS on 2 May 2023. In line with the transitional arrangements as set out in the Schedule to the Local Development Plan Regulations (NI) 2015 (as amended) the Local Development Plan now becomes a combination of the Departmental Development Plan (DDP) and the Plan Strategy (PS) read together.
11. In this appeal, the Belfast Urban Area Plan 2001, (BUAP) operates as the relevant DDP. In accordance with legislation any conflict between a policy contained within the DPP and those of the PS must be resolved in favour of the PS. In BUAP, the appeal site lies within the development limit and Area of Business Development Potential. There are no policies within the DDP that are pertinent to this appeal.
12. On 18 May 2017, the Court of Appeal declared the decision to adopt BMAP unlawful. As a result of this ruling, the designations in the draft Belfast Metropolitan Area Plan (dBMAP), published in 2004, can be a material consideration in certain instances. Within this, the appeal site is within land zoned as the main office area and next to a development opportunity site and city centre gateway. There are no specific policies or designations which are pertinent to the appeal proposal.

13. Within the PS, the infrastructure, telecoms and utilities policies aim to facilitate the appropriate provision of infrastructure to meet current and future needs in a timely and co-ordinated way and to minimise visual and environmental impacts of infrastructure, telecoms and utilities in order to support sustainable economic growth. Policy ITU 1 relates to telecommunications development. It states that planning permission will be granted for the development of new or upgraded telecommunications infrastructure in appropriate locations where such proposals will :
 - a. Enhance connectivity;
 - b. Encourage investment and support the competitiveness of the city and
 - c. Not result in unacceptable damage to visual amenity or harm to environmentally sensitive features or locations, or heritage features.

Developers will be required to demonstrate that proposals for telecommunications development have regard to technical and operational constraints and have been sited and designed to minimise visual and environmental impact.

14. Paragraph 9.1.5 of the Justification and Amplification (J & A) to Policy ITU acknowledges that technical and operational constraints can determine the suitability of sites for telecommunications development. For example, masts and antenna often require a particular operating height to allow signals to clear trees and buildings. Telecommunications development may therefore need particular locations in order to work effectively. However, there is also a need to control telecommunications development to protect landscapes, townscape character and skylines from harm.
15. The proposed phase 8, 15m monopole c/w wraparound cabinet at base and ancillary works is to provide comprehensive digital coverage with a 5G installation to facilitate significantly improved connectivity. The target coverage area includes the site and areas to the north and west.
16. Supporting information states that mobile phone base stations operate on a low power and accordingly base stations need to be located in the areas they are required to serve. A further limiting factor is that the location has to be one that fits in with the existing network. Sites must form a patchwork of coverage cells with each cell overlapping to a limited degree with the surrounding base stations to provide continuous network cover as users move from one cell to the other. If this overlap is too great, unacceptable interference is created between the two cells. The appellant states that they have considered the detailed siting and design carefully to ensure the proposal has a limited visual impact on the locality and general visual amenity.
17. The proposed telecoms streetpole and associated equipment cabinets are located to the rear of a footpath along Cromac Street, adjacent to a wide grass verge. On this grass verge is a linear row of 7 trees, which are part of a full linear band of trees which extend northwards along Cromac Street. Immediately to the rear of the appeal site is a large surface area car park and an extensive housing area to the east and north east. St Mary's Primary School is also to the north east. On the opposite side of the road are 2/3 storey commercial properties and a number of surface level car parks.

18. Planning drawing '260 Proposed H3G Elevation' shows the context of the proposal (I note that the top of the tower is 20m above ground level) sited within the linear band of trees (approximately 8m in height). There are no cross sections available showing the proposal within the context of the commercial buildings on the opposite side of the road or the surface level car park and open space to the rear of the proposal. The proposed streetpole would rise considerably above the existing immediate streetscape. I consider that given its roadside location within its immediate context, the proposal is a conspicuous feature in comparison with the immediate urban grain. There are no other tall buildings in the vicinity which would assist in integrating the telecoms streetpole into its context.
19. Travelling Cormac Street, on approach from the south from the bend in the road (at the junction with Ormeau Avenue) to the appeal site, given the proposed height of the monopole and its roadside location, it would result in undue prominence within the street scene for both motorists and pedestrians. This would be for a short stretch of the road until at the appeal site, and then the monopole is behind the viewer.
20. However, views are long range and sustained towards the appeal proposal when travelling Cromac Street, on approach from the north. Again, motorists and pedestrians, would view the monopole rising considerably above the immediate streetscape. The linear band of trees (at approximately 8m in height) do not provide a sufficient backdrop or enclosure to the proposal to ensure its sympathetic integration into the street scene. Its location, on the footpath, to the front of a large surface area car park and the fact that there are no tall buildings or structures in close proximity to provide some form of enclosure or backdrop means that the proposal will appear prominent and isolated within this urban setting.
21. The full linear band of trees along the eastern edge of Cromac Street, provide high levels of public visual amenity and a visual foil against the commercial side of Cromac Street and the looser low density urban grain of the residential / educational / open spaces to the eastern side of the road. The placement of this 15m monopole and associated base cabinets, in my opinion, undermines the contribution of these important urban trees to the visual amenity and character of this part of the city. When read in the context of this linear band of urban trees with all of the associated ancillary equipment the proposal would, create unacceptable visual clutter in an area which is relatively free of street furniture (with the exception of a few streetlights).
22. The second part of Policy ITU1 relates to proposals for the development of a new telecommunications mast and is therefore engaged. It states that proposals for the development of new telecommunications masts will only be considered acceptable by the Council where the above requirements are met and where it is demonstrated that:
 - d. The sharing of an existing mast or other structure has been investigated and is not feasible; or
 - e. A new mast represents a better environmental solution than other options.

Paragraph 9.1.6 of the J & A states that the following options should be considered before a new mast :

- Installing smaller antennas;

- Disguising antenna and equipment, for example as part of a building or street furniture;
 - Designing antenna and equipment so that they appear to be an integral part of the building, structure or landscape;
 - Sharing existing sites, masts or other infrastructure;
 - Installing antennas on a building or structure not already used; and
 - Developing a new mast only when other options are not possible or it represents a better environmental solution than other options.
23. The Council were not content that criterion (e) had been met. While the planning application was prepared and submitted prior to this coming into effect, the same requirements were found in PPS 10 and it is apparent from the supporting information that PPS 10 was referred to.
24. The appellant stated that operators always follow the sequential site selection process and where an existing site can be shared or upgraded this will always be adhered to before a new proposal is put forward for consideration. In this instance, I was told that there is no scope or opportunities to upgrade an existing mast or site share. Five discounted options (and locations indicated on attached map) were put forward.
- D1 : wide pavement and good quality access, however close proximity to Grade A listed building (Gas works);
- D2: narrow pavement and residential area (Stewart Street);
- D3: narrow pavement (Cormac Place)
- D4: good pavement and access but opposite Grade B2 listed building and long distance from nominal; and
- D5: residential area and next to children's playground: further from nominal than proposal.
25. I was told that as with all 5G cells this is an extremely constrained cell search area. As such, options are limited and the only viable option which minimises amenity issues has been put forward. The proposed installation is required to deliver new 5G coverage within the cell search area and given the build and technical coverage constraints the least visually intrusive design solution available has been put forward.
26. Although the appellant provided five options which were discounted within the cell area, I would concur with the Council that I would have expected visual representations demonstrating these options within their urban setting and relationships to the cited listed buildings, to justify why they were discounted. I note that the appellant states that a sequential approach was adopted and there were no suitable rooftops / existing structures which would facilitate a rooftop / site share installation within the designated search area therefore justifying the lack of options of this type. However, no persuasive evidence was provided to substantiate these claims.
27. As such, I have not been persuaded that consideration was given to the location of equipment to meet the operators' requirements on any flat roof tops / site share installations within the search area as required by policy (paragraph 9.1.6). I would concur with the Council's position that there is a lack of information and

clarity regarding the assessment of other sites to be satisfied that the need for the proposed telecoms structure at this particular location outweighs the visual impacts of the proposal and represents a better environmental solution than other options.

28. In conclusion, due to the height, location and prominence of the proposed telecoms streetpole, I conclude that it would result in unacceptable damage to visual amenity of the streetscape and urban context. The appellant has failed to demonstrate that it has been sited and designed to minimise visual impact and could not have been located in a more suitable and less visually intrusive location. As such, the proposal is contrary to Policy ITU 1 of the PS and relevant guidance within DCAN 14 and the Council's first and second reasons for refusal are sustained. Therefore, the appeal must fail.

COMMISSIONER MANDY JONES

This decision relates to the following drawings refused by Belfast City Council on 9 August 2022.

- 002. Site Location Plan, scale 1:1250
- 100. Existing Site Plan, scale 1:100
- 150. Existing Elevations, scale 1:100
- 210. Proposed Site Plan, scale 1:100
- 260. Proposed Elevations, scale 1:100
- 303. Proposed configuration antenna schedule
- 305. Equipment Schedules and support structure details

List of documents

Planning Authority:
(Belfast City Council)

A Statement of Case
A1 Comments re: LDP

Appellant:
(WNP Telecoms)

B Statement of Case