
Appeal Reference:	2022/A0133.
Appeal by:	CK Hutchison Networks (UK) Ltd.
Appeal against:	The refusal of full planning permission.
Proposal:	Proposed installation of a 20m High Telecoms Streetpole c/w wraparound cabinet, with integrated antenna and 3no. additional equipment cabinets and ancillary equipment.
Location:	Area of existing footpath located off Antrim Road 5.5m north of 184 - 186 Antrim Road and 1.5m south of 196 - 198 Antrim Road, Belfast. BT15 2AJ.
Planning Authority:	Belfast City Council.
Application Reference:	LA04/2021/2141/F
Procedure:	Written representations with Commissioner's site visit on 25 June 2024.
Decision by:	Commissioner Mandy Jones, dated 27 June 2024.

Decision

1. The appeal is dismissed.

Preliminary Matter

2. On 6 September 2022, Belfast City Council refused planning permission for the Proposed installation of a 20m High Telecoms Streetpole c/w wraparound cabinet, with integrated antenna and 3no. additional equipment cabinets and ancillary equipment as it was contrary to the Strategic Planning Policy Statement for Northern Ireland (SPPS), Planning Policy Statement 10 (PPS 10), Telecommunications and Planning Policy Statement 6 (PPS 6) Planning Archaeology and the Built Heritage.
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 PPS 10 and PPS 6, 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 Paragraphs 6.239 and 6.243 of the SPPS and Policy ITU of the Belfast Local Development Plan : Plan Strategy 2035 in that the proposal would, if permitted, result in unacceptable damage to visual amenity and harm to environmentally sensitive heritage features'

' The proposal is contrary to Policy BH1 of the Belfast Local Development Plan : Plan Strategy 2035 in that the proposal would not, if permitted, be sympathetic to the essential characteristics of the nearby listed buildings by way of its scale and form and it would detract from the setting of two listed buildings and reduce their special architectural and historic interest by becoming a competing focus.'

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 or harm to environmentally sensitive features or locations on which the Council's first reason for refusal was based.
7. Policy BH1 of the PS relates to Listed Buildings and relates to new development affecting the setting of listed buildings. Criterion (a) requires that new development is sympathetic to the essential characteristic, scale, height, massing and alignment of the listed building by way of its scale, form materials and detailing. Criterion (d) requires that development does not have a detrimental impact on the setting of the listed building. These criteria reflect Policy BH 11 of PPS 6 criterion (c), which requires that the nature and use proposed respects the character and setting of the listed building 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. In any event, I note that the appellant referred to the updated policies within the PS in their statement of case. This appeal is therefore assessed having regard to the updated policy context as provided by Policy ITU 1 and Policy BH1 of the PS.

Reasoning

9. The main issues in this appeal are whether the appeal proposal would result in unacceptable damage to visual amenity and whether it would detract from the setting of two listed buildings and reduce their special architectural and historic interest by becoming a competing focus.
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. 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 (d BMAP), published in 2004, can be a material consideration in certain instances. Within this, the appeal site is on unzoned land within the development limit of Belfast and is located on the Antrim Road arterial route. 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. Paragraph 9.1.7 states that wherever possible, telecommunications development should avoid sensitive features and locations of archaeological, built, or natural heritage value including listed buildings.
15. Policy BH 1 – Listed Buildings in the PS, sets out policies for new development affecting the setting of listed buildings and states that planning permission will be granted for new development affecting the setting of listed buildings where a number of criteria are met including:
 - a. The development is sympathetic to the essential characteristic, scale, height, massing and alignment of the listed building by way of its scale, form materials and detailing.
16. Paragraph 7.4.8 of the J & A to Policy BH1 states that the setting of a listed building is often an essential part of the buildings character. In some circumstances they may include adjacent buildings or an entire street. Any

proposals for development which by its character or location may have an adverse affect on the setting of listed buildings will require careful consideration.

17. CK Hutchison Networks (UK) Ltd have identified a need to provide new 5G network coverage to the area in and around Antrim Road. The proposal is for a 20m high, Phase 8 street pole with a built-in wrap around cabinet which will sit alongside 3 no. additional ancillary equipment cabinets. The equipment will occupy a footprint of 1.8m² and approximately 4.3 m² when factoring in the space between the individual items of apparatus. Integrated antennae are mounted at the top of the streetpole. It is located on an area of adopted public highway.
18. The supporting information states that due to the high frequency and low power output of such installations, the cell areas are very constrained. The base stations must be situated within close proximity of the area they are designed to cover ie Antrim Road. Existing telecommunications sites, structures and buildings, which could potentially accommodate the necessary equipment were not identified. Consequently, a street works installation was considered to be the most viable solution. The appellant appreciates that there may be a degree of visual impact from the erection of a new ground-based installation, however the proposed installation has been carefully positioned to help with assimilation and is not directly in front of any residential properties. A new site is required to meet CK Hutchison Networks (UK) Ltd operational requirements and to provide much needed coverage to this densely populated area. The appellant considered that the site benefits from the presence of existing trees which will further reduce any visual impact.
19. The appeal site is located on an area of existing footpath on the Antrim Road, 5.5m north of 184-186 Antrim Road and 1.5m south of 196 – 198 Antrim Road. The appeal site is located in front of a vacant parcel of land currently in use for parking for neighbouring retail units. There are 2 no listed buildings ; Duncairn Presbyterian Church and St. James, Church of Ireland located either side of the site. The surrounding area is commercial in nature and characterised by 2 – 4 storey buildings.
20. Planning drawing '265. Proposed Site Elevation' demonstrates the context of the proposal (20 m in height) sited between the buildings to the south (184-186 Antrim Road) with a ridge height of 14m and the buildings to the north (196 – 198 Antrim Road) with a ridge height of 9m. The heights of these buildings are fairly typical of the immediate context. The proposed telecoms streetpole rises considerably above the existing immediate streetscape. It is positioned on the footpath slightly out from the existing building line. Within the immediate context the proposed telecoms streetpole at 20m is a dominant and conspicuous feature at this particular location in comparison with the adjacent buildings which have 14m and 9m ridge heights. There are no other tall buildings located within the immediate context of the appeal site which would help to integrate the telecoms streetpole into the surrounding streetscape. The J & A, at paragraph 9.1.6 requires operators for telecommunications development to consider designing equipment so that they appear to be an integral part of a building or structure. The proposed telecoms streetpole at 20m in height appears incongruous within the immediate context, as it ascends way above the existing built urban form.

21. The proposed telecoms streetpole is located approximately 157m from the listed building, St James COI to the north of the appeal site and 80m from the listed building to the south, Duncairn Presbyterian Church (deconsecrated and currently in use as a café.) Both of these listed buildings have soaring monumental spires which are focal points within the city. The Council raised critical views when travelling the Antrim Road in both directions.
22. Given the urban setting of the appeal site, I would expect to see contextual massing drawings of the wider streetscape demonstrating the relationship between the proposed telecoms streetpole and the spires of the two listed buildings, however this was not available.
23. Traveling north bound on the Antrim Road, just prior to the slight bend in the road (to the south of the appeal site) the proposed telecoms streetpole would be seen by both motorists and pedestrians rising above the immediate streetscape along with the spire of Duncairn Church. Continuing traveling along the road, as far as the appeal site, the telecoms streetpole is then seen along with spire of St James Church in the distance. In the immediate area of Duncairn Church, the proposed telecoms streetpole would be seen with both spires.
24. Travelling south bound, on approach to St James Church, the proposed telecoms streetpole would be seen with its spire. Due to the straight alignment of the road ahead, when passing St James Church, the proposed telecoms streetpole would be seen along with the spire of Duncairn Presbyterian Church in the distance, for a sustained duration until around the appeal site. Both spires and the proposal are seen rising considerably above the surrounding streetscape. Although there are trees within the immediate setting providing enclosure for each of the listed buildings, they are not tall enough to reduce the visual impact of the telecoms streetpole on the skyline.
25. Due to the scale, form and siting of the proposed telecoms streetpole, I conclude that within the streetscape it would result in unacceptable damage to visual amenity, detract from the setting of the two listed buildings and would have a detrimental impact on their special architectural and historic interest by becoming a competing focus. As such, the proposal is contrary to Policies ITU 1 and BH1 of the PS 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 6 September 2022.

- 002. Site Location Plan, scale 1:1250
- 006. Underground Services Plan, scale 1:100
- 100. Existing Site Plan, scale 1:100
- 150. Existing Elevations, scale 1:100
- 215. Proposed Site Plan, scale 1:100
- 265. Proposed Elevations, scale 1:100
- 304. Proposed configuration antenna schedule
- 307. Equipment Schedules and dependencies

List of documents

Planning Authority:
(Belfast City Council)

A 1 Comments re: LDP

Appellant:
(dot surveying)

B Statement of Case