

4 APPEAL DECISION: LAND TO NORTH OF 242 KINGSWAY, DUNDEE - TELECOMMUNICATIONS DEVELOPMENT (15m, SLIMLINE MAST WITH ANTENNAS, MICROWAVE DISH AND HOUSING CABINETS) (AN434-2003)

Reference is made to Article VI(p) of the minute of meeting of this Committee of 24th February, 2003 wherein the above proposal was refused planning permission because the Council considered that the proposals would be contrary to the terms of Policies H1 and BE31 of the adopted Local Plan and to Policy 1 and the supplementary policy guidance attached to Policy 78 of the Finalised Dundee Local Plan Review. All these policies relate to visual impact and residential amenity issues.

The decision was appealed by the applicant under the provisions of Section 47 and Schedule 4 of the Town & Country Planning (Scotland) Act 1997.

The appeal was determined by written representation and the decision was received by the Council on 1st September, 2003. A copy of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether the development was consistent with the provisions of the development plan; and if not whether exceptional treatment is justified by material considerations.

In summary, the Reporter concluded that:

- (a) the proposals would be seen against a cluttered urban backdrop dominated by the heavily trafficked Kingsway and the overbridge with its ramp and railings.
- (b) the proposal was operationally justified and site searches by the appellant had failed to identify a better site;
- (c) the proposals would have "only a fairly minor visual impact which would be unlikely to detract from the environmental quality enjoyed by local residents";
- (d) the proposals therefore did not conflict with the provisions of the development plan; and
- (e) "some weight" should be attached to the Council's non-statutory guidelines attached to Policy 78 of the emerging Local Plan Review. Although there is a presumption against such proposals in proximity to housing, this presumption can be rebutted because of the way in which the equipment is located and designed and because it appeared that better solutions were not available.

Accordingly the appeal was UPHELD, with conditions relating to the painting of the apparatus and its removal with ground reinstatement when the development ceases use.

The Reporter dismissed a claim for expenses which had been lodged by the appellant on the grounds that the Council's decision to refuse was inconsistent with Scottish Executive advice and the development plan.