

KEY INFORMATION

Ward Coldsid

Proposal

Erection of 15m tall replica flag pole to accommodate Vodafone and Telefonica antenna and 2 ground level cabinets and ancillary works

Address

Dudhope Bowling Club
Adelaide Place
Dundee

Applicant

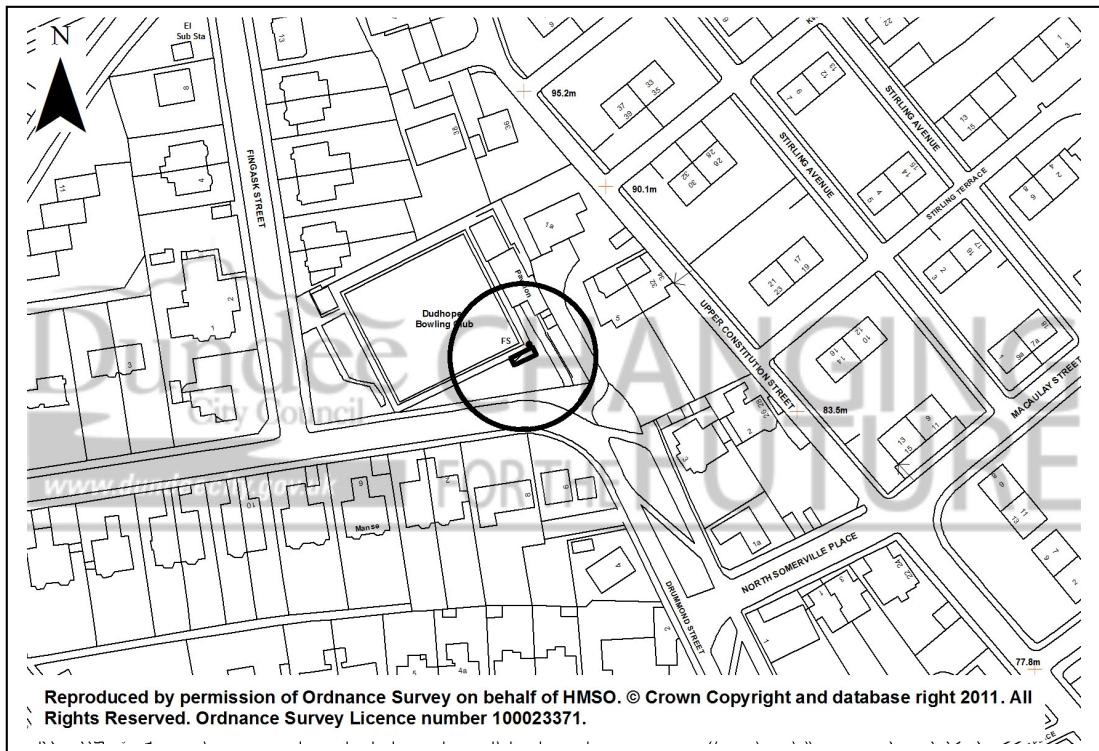
Vodafone/Telefonica
The Connection
Newbury
Berkshire RG14 2FN

Agent

A and K Solutions Ltd
Andrew Swain
31 Churchill Drive
Bishopton PA7 5HF

Registered 5 Aug 2011

Case Officer Eve Young



Telecom Mast Proposed at Dudhope Bowling Club

The Erection of 15m tall replica flag pole to accommodate Vodafone and Telefonica antenna and 2 ground level cabinets and ancillary works is **RECOMMENDED FOR REFUSAL**. Report by Director of City Development.

RECOMMENDATION

The proposed mast is considered to be contrary to Policy 1 (Vibrant and Sustainable Communities) of the Dundee Local Plan Review 2005 by virtue of scale, design, massing and location and does not comply with the Council's Non Statutory Planning Policies in Relation to Telecommunications and Other Apparatus Nov 2007. Alternative sites have not been adequately investigated. It is therefore recommended that planning permission is **REFUSED**.

SUMMARY OF REPORT

- Planning permission is sought for a 15m tall replica flagpole telecoms mast supporting 3 Vodafone and 3 Telefonica 3G antenna within a GRP shroud and 2 ground based equipment cabinets at Dudhope Bowling Club, Adelaide Place Dundee. The structure will be 324mm in diameter.
- The surrounding area is wholly residential with predominantly traditional stone built houses. By contrast, the bowling green provides an open area with no trees.
- The applicant submitted site specific supplementary information as well as a supporting statement.
- 38 objections were received on the following valid planning grounds; adverse impact on visual and residential amenity; impact on Conservation Area; design and scale, not a replica flagpole; parking issues and alternative sites have not been adequately discharged.
- The proposed mast is considered to be contrary to Policy 1 (Vibrant and Sustainable Communities) of the Dundee Local Plan Review 2005 by virtue of scale, design, massing and location and does not comply with the Council's Non Statutory Planning Policies in Relation to Telecommunications and Other Apparatus Nov 2007. Alternative sites have not been adequately investigated.
- This application requires to be reported to the Development Management Committee following a request by an elected Member.

DESCRIPTION OF PROPOSAL

This application seeks planning permission for the installation of a 15m tall replica flagpole telecoms mast supporting 3 Vodafone and 3 Telefonica 3G antenna within a GRP shroud and 2 ground based equipment cabinets at Dudhope Bowling Club, Adelaide Place, Dundee. The structure will be 324mm in diameter.

The proposals involve a dual operator telecommunications installation whereby Vodafone is systematically removing and upgrading their existing installations across the City.

The applicant has submitted supporting information in the form of a planning statement, site specific supplementary information, coverage plots and the required ICNRP certification.

In accordance with the Council's mandatory scheme of delegation this application requires to be reported to the Development Management Committee following a request by an elected Member.

SITE DESCRIPTION

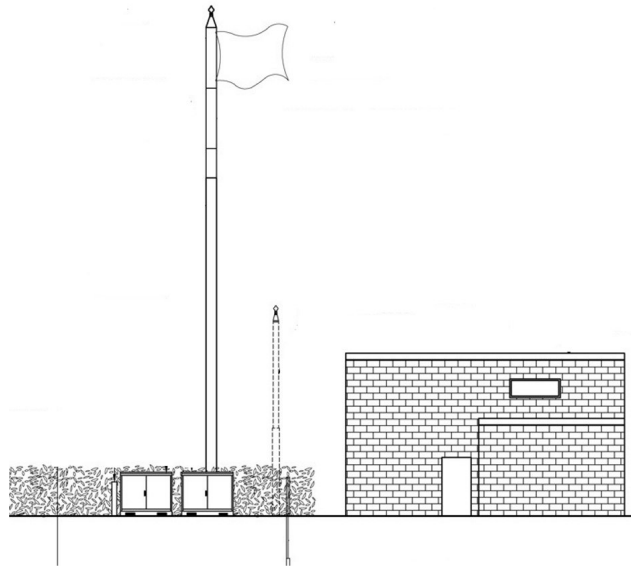
The application site is situated within Dudhope Bowling Club on the northern side of Adelaide Place, at its junction with Drummond Street. The site is positioned at the south east corner of the bowling green to the south of the club house building. There is an existing 6.4 m high flagpole within 2 m of this location. Due to the sloping nature of the location, this part of the bowling green is built up approx 3 m above street level. There is an area of unused open ground to the west of the bowling green to the boundary with Fingask Street.

There is no vehicle access to this part of the bowling green, but there is an informal area of off street parking on the north side of the road as it curves south into Drummond Street. The road has double yellow lines, on both sides, to restrict parking.

The area lies on the south facing slopes of Dundee Law which dominates the City and results in sloping streets and

sites with views both up to the Law summit and down to the Tay estuary.

The approach to the site from the west, along Adelaide Place, is bounded by trees to the north as far as the junction with Fingask Street which then changes to the open nature of the wider bowling green site with no trees on the south or west side of the bowling green complex.



From the south, up Drummond Street, the street is fairly narrow and enclosed by trees on the east until the turn into Adelaide Place where the open nature of the bowling green site on the higher ground to the north contrasts with the garden walls and villas to the south.



From the north, down Fingask Street, the ground is steeply sloping giving views across the houses to the Tay estuary. As the slope levels out towards the junction with Adelaide Place, the bowling green is an open area to the west with the existing flagpole clearly visible.

The surrounding area is wholly residential comprising stone built villas to the south, west and north and a mix of older stone houses with later more modern infill development to the east.

The boundaries of the bowling club site are formed by high walls of approx 2 m with a traditional hedge around the actual green.

POLICY BACKGROUND

Dundee and Angus Structure Plan 2001-2016

There are no policies relevant to the determination of this application.

Dundee Local Plan 2005

The following policies are of relevance:

Policy 1: (Vibrant and Sustainable Communities) - the City Council will promote vibrant communities, encouraging the development of an appropriate range of services and facilities close to and within housing areas.

New development should be in accordance with other policies in the Plan and seek to minimise any affect on the environmental quality enjoyed by local residents by virtue of design, layout, parking and traffic movement issues, noise or smell.

Policy 78: (Location of Telecommunications Equipment) - this policy encourages, amongst other things, Operators to share existing masts in order to minimise the environmental impact on the city. This Policy also states that the Council's supplementary policies ("Non Statutory Planning Policies in Relation to Telecommunications and Other Apparatus") will be a material consideration in the determination of planning applications for telecommunications developments.

Policy 66A: Protection of Playing Fields and Sports Pitches is also relevant.

Scottish Planning Policies, Planning Advice Notes and Circulars

The following are of relevance:

- The Scottish Planning Policy 2010
- PAN 62: Radio Telecommunications.

Non Statutory Statements of Council Policy

The following policy statements are of relevance:

Non Statutory Planning Policies in Relation to Telecommunications and Other Apparatus November 2007.

SUSTAINABILITY ISSUES

There are no specific sustainability policy implications arising from this application.

SITE HISTORY

Planning application ref: 10/00735/FULL was withdrawn by the applicant on 26 January 2011. This application had sought planning permission for the installation of 2 x 13.75m replica flagpoles and 2 equipment cabinets on land at this bowling green. One mast was to serve Vodafone and was to be located on the current site. The other mast to serve O2 customers was to be located in the open ground to the west of the bowling green. The plans submitted were inaccurate and required a new application.

PUBLIC PARTICIPATION

The Council has followed the statutory neighbour notification procedures stipulated by the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008. This resulted in 6 neighbouring residential properties being notified of the proposed development.

As there is only one development site in this application, there were fewer neighbours notified, compared to the previous application. This has led to some concerns raised by objectors. However, the notification did meet the requirements.

38 objections have been received on the following valid planning grounds:

- adverse impact on visual amenity;
- adverse impact residential amenity;

- adverse impact on the amenity of the adjoining Conservation Area;
- design and scale, not a replica flagpole and is twice the height and width of the existing flagpole;
- no parking available and construction and maintenance traffic will cause danger to road users; and
- alternative sites have not been adequately discharged. Other suitable sites dismissed without good reason.



Members will already have had access to these submissions and the points raised are considered in the "Observations" Section of this Report below.

CONSULTATIONS

No adverse comments have been received from Consultees.

OBSERVATIONS

Section 25 of the Act provides that an application for planning permission (other than for a national development) will be determined in accordance the development plan unless other material considerations indicate otherwise.

The Development Plan

The provisions of the development plan relevant to the determination of this application are specified in the Policy background section above.

Policy 1: (Vibrant and Sustainable Communities) supports proposals within residential areas that seek to minimise any adverse impacts on the level of environmental quality afforded to neighbouring properties by virtue of

design, layout, parking and traffic movement issues, noise or smell.

In terms of layout and design, the proposed telecommunications mast will be located within Dudhope Bowling Club which is elevated above Adelaide Place. As the mast will be 15m in height and is located on a site approximately 3m above the adjacent road level, it will be a very dominant feature visually above Adelaide Place.

As noted in the site description, the bowling club provides a large open space within this residential area. The proposed site for the mast and its scale and mass are such that it will result in a very obvious feature when viewed from the approaches to the site. There are no opportunities for effective mitigation of the structure.

Although the applicant describes the proposed as a replica which is designed to have the appearance of a flagpole, the diameter of the mast (0.324m) is significantly larger than the diameter of other replica flagpole masts installed at bowling clubs throughout the City (Broughty Ferry Bowling Club 0.2m). The mast will not taper and will have the appearance of a large white pole with a flag attached.

Therefore, it is considered that the proposed telecommunications mast will not appear as a traditional flag pole and by virtue of its location will appear as an incongruous intrusion into the residential environment.

In terms of traffic movement and parking issues, there is limited, informal off street parking close to the site but on street parking is available in relatively close proximity which can accommodate maintenance vehicles. Accordingly it is considered that there are no issues with regard to traffic movement and parking issues.

There are no issues with regard to noise or smell.

Taking the above factors into account it is concluded that despite the best efforts at disguise, a mast of this scale and design would become an obtrusive landmark that would look out of place in this otherwise attractive, residential setting.

Therefore by virtue of scale, design, massing and location the proposed telecommunications mast will have an incongruous appearance that will adversely affect the level of environmental quality afforded to neighbouring residential properties.

The proposed telecommunications development is therefore contrary to the requirements of Policy 1 (Vibrant and Sustainable Communities) of the Dundee Local Plan Review 2005.

Policy 78: (Location of Telecommunications Equipment) encourages, Operators to mast share. The proposed mast will accommodate antenna from two operators providing 3G network coverage to this area of the city.

Where mast share is not a feasible proposition, applications will be assessed with the objective of minimising the environmental impact on the city. As this is a mast share proposal, the environmental impact is not assessed under Policy 78.

This Policy also states that the Council's supplementary policies ("Non Statutory Planning Policies in Relation to Telecommunications and Other Apparatus") will be a material consideration in the determination of planning applications for telecommunications developments. These policies are referred to below in the section of this report headed Other Material Considerations.

It is considered that the applicant's agent has satisfied the relevant requirements of Policy 78 (Location of Telecommunications Equipment) of the Dundee Local Plan Review 2005.

Policy 66A is not supportive of proposals that would effectively remove designated sports pitches and playing fields. The application site is very small and the proposal would not impinge upon the sports function of the ground. Therefore, the proposal is not in breach of policy 66A.

It is concluded from the foregoing that as the application fails to comply with Policy 1, the proposals do not comply with the provisions of the Development Plan.

Other Material Considerations

The other material considerations to be taken into account are as follows:

a Supplementary Planning Guidance

Non-statutory Planning Policies in Relation to Telecommunications and Other Apparatus November 2007.

Policy 1: there should be an assessment of the operational justification, alternative sites, the options for mast sharing or use of buildings and the cumulative impact of individual proposals where other telecommunications developments are present nearby.

The agent has provided detailed explanation of the technical issues applicable to this site as follows:

"Mobile phone base stations have the capability to communicate with multiple base stations whenever they are located in the fringe areas covered by overlapping base stations. However, it is not desirable for an overlap area to contain signals from a large number of base stations. As this would create pilot pollution interference and overload the base station.

Whilst this site has the possibility of causing pilot pollution to a large area and impacting on Dundee City due to its height it does so to lesser degree than other options whilst maintaining a good degree of coverage into the target area."

"The location is such it gives a good distribution of sites across the area hence minimising the number of sites required."

In accordance with this technical criteria, the following alternative sites were investigated and the application property was chosen as the preferred site. The remaining sites which were discounted by the applicant for the reasons described by them were:

St David's High Kirk, Kinghorne Road, Dundee DD3 6PW - the use of a replica flagpole on the church tower would further increase the height in relation to the surrounding area. This location is too high, and there is little opportunity to use the surrounding clutter to control and contain the coverage from this location.

Streetworks, Minard Crescent - proposed street furniture location

identified, however following investigations it was confirmed that the pavement on this street is not adopted. Therefore discounted, as would not have rights to install street furniture.

Streetworks Adelaide Place - proposed street furniture location identified, however following investigations it was confirmed that the pavement on this street is not adopted. Therefore discounted, as would not have rights to install street furniture.

Adelaide, Albany, Douglas, Dudhope Terrace Area - highly residential; adopted footpaths restricted in width with underground services; within Conservation Area.

Minard Crescent, Wishart Street, Kinloch and Stirling Terrace areas Highly residential, footpaths restricted in width or no footpaths and most not adopted. Technically less suitable due to "pollution" of other mast operations compared to chosen option.

Allotments Law Road - "It was considered that any development in this area would have a significant impact upon the Law, this location is too high "polluting" to a large area and there is little to no opportunity to use the surrounding clutter to control and contain the coverage from this location.

Where it is considered an installation would have a backcloth of trees against the Law, the allotments although owned by Dundee City Council are currently subject to discussions which would transfer ownership to some form of users Trust."

Existing Mast (Police Emergency Services) - this site would "pollute" a large area of Dundee in all directions, it is the highest point with uninterrupted views of Dundee, a site in this location would "pollute" a very large area hence interfere with a significant numbers of sites throughout Dundee

The applicant concludes that the application site is the best for both technical and environmental reasons.

While the applicant has submitted reasoning why alternative sites are not suitable for the proposed development it is clear from the assessment of the proposals against the requirements of Policy 1 of the adopted Local Plan above that the applicant has failed to justify the location or design of the proposed 15m high

telecommunications mast on the application site.

The justification why some alternative sites are not suitable is that they are not adopted highways. This is not a justification it is a statement of fact. However, it should be noted that the application site is not situated on an area of adopted highway. There are no ownership issues with regard to the allotments on the Law owned by Dundee City Council.

The proposals therefore fail to satisfy the requirements of Policy 1 of the Council's Non Statutory Planning Policies in Relation to Telecommunications and Other Apparatus Nov 2007.

Policy 2: there will be a general presumption against free standing masts and ground based apparatus within or immediately adjacent to residential areas. However, exceptions to the general presumption may be made where the proposal is sensitively sited and designed and where the operator has demonstrated that it is the most appropriate location.

As considered under Policy 1 of the Adopted Local Plan, the mast is of a design and scale that is out of character with the surrounding area. Consequently the proposed telecommunications installation would adversely impact the level of environmental quality afforded to neighbouring residential properties. The proposals therefore fail to satisfy the requirements of Policy 2 of the Council's Non Statutory Planning Policies in Relation to Telecommunications and Other Apparatus Nov 2007. As noted above, the operator has also failed to demonstrate that this is the most appropriate location.

Policy 15: Mast Sharing and Design Issues. The Council will encourage opportunities for mast sharing subject to satisfactory location and design.

The proposals seek planning permission for mast sharing apparatus on the application site. However, given the Council's concerns, as detailed above, relating to the scale, massing and design of the proposed mast in relation to the surrounding residential area, the proposed telecommunications mast is not considered appropriate for the application site.

The proposals therefore fail to satisfy the requirements of Policy 15 of the Council's Non Statutory Planning Policies in Relation to Telecommunications and Other Apparatus November 2007.

The proposed development does not comply with the relevant policies contained within the Council's Non Statutory Planning Policies in Relation to Telecommunications and Other Apparatus Nov 2007.

b National Policy and Guidance

SPP 2010 and PAN 62 require telecommunications equipment to be designed and positioned as sensitively as possible.

It is considered that the preceding observations demonstrate that this requirement has not been met in this particular case.

The supporting information fails to demonstrate that the proposed mast on this application site is the most suitable location for the proposed telecommunications installation within this high quality, low density traditional residential area in a prominent location on the slopes of the Law.

The applicant has carried out a site selection process but has failed to justify the location of the application site. The design of the proposed mast is not considered to be a replica flag pole but would appear as a tall white pole with the opportunity to fly a flag and it will be an incongruous, obtrusive structure that would look out of place in this otherwise attractive residential setting.

The proposals therefore fail to adhere to the guidance contained within the Scottish Planning Policy 2010 and PAN 62.

c Supporting Information

The applicant's agent has submitted the necessary ICNIRP Certificate with regard to the operation of the mast and a statement of justification in support of the application.

Coverage plots have been submitted as part of this planning application in order to demonstrate that within the vicinity of the application site there is an operational requirement for a telecommunications installation involving the erection of 3G antennas to provide effective network coverage for Telefonica 3G and Vodafone.

The supporting statement provides a general background to the 2G and 3G operational context between Telefonica 3G and Vodafone and how this relates to the proposed telecommunications development and the site selection process.

The applicant considers that the application is; "utilising a structure which remains in keeping the appearance and character of its surroundings."

Whilst the statement goes on to state that every effort has been made to minimise the height and girth of the structure, it is clear that the operating requirements are the primary consideration and the minimum requirements are considered to be sufficient to set aside the environmental concerns.

However, as demonstrated by the assessment of the proposals against the relevant provisions of the Development Plan, National Policy and Guidance and the Council's Non Statutory Planning Policies in Relation to Telecommunications and Other Apparatus November 2007, the supporting statements do not demonstrate that the design of the proposed telecommunications development or the location of the application site are acceptable.

d Objections

38 valid objections were received on the following grounds.

- adverse impact on visual amenity.
- adverse impact residential amenity
- adverse impact on the amenity of the adjoining Conservation Area.
- design and scale, not a replica flagpole and is twice the height and width of the existing flagpole.
- no parking available and construction and maintenance traffic will cause danger to road users.
- alternative sites have not been adequately discharged. Other suitable sites dismissed without good reason.

Invalid grounds of objection were also raised in terms of the health impact of mobile phone masts and the need for this mast.

It is considered that the issues of visual and residential amenity; the design and scale of the proposed mast and alternative sites have been discharged elsewhere in the report.

Conservation Area - the site does not lie within the Conservation Area but is close to it and the proposed mast would be clearly visible in many views of the mature residential area which it comprises. The statutory requirement to preserve or enhance the character or appearance of the Conservation Area cannot be applied in this situation. The impact on the visual and residential amenity of the houses which happen to lie within the Conservation Area has already been addressed.

A number of objectors state that according to the web sites of the applicants, O2 is top rated service and Vodafone is reliable and therefore no need has been demonstrated. Government advice is that the issue of need is not a valid planning objection in the consideration of mobile phone mast applications.

A number of objectors also included concerns about the health impact of mobile phone masts in their letters.

The report of the Independent Expert Group on Mobile Phones (IEGMP) which reported in May 2000 concluded that "the balance of evidence indicates that there is no general risk to the health of people living near to base stations on the basis that exposures are expected to be small fractions of the public exposure guidelines of ICNIRP".

In relation to the planning process, legislation now provides that each application for planning permission involving antennae must be accompanied by a signed declaration that the equipment and installation is designed to be in full compliance with the appropriate ICNIRP guidelines for public exposure to radio frequency radiation.

This application is accompanied by the required ICNIRP certification. In this instance, the proposed telecommunications development shall not pose a significant threat to the health of neighbouring residents or members of the Bowling Club.

It is the Scottish Government's view that there should be no need for planning authorities to consider power outputs and their implications for

public health. The planning system should not be used to secure objectives properly achieved under other legislation and it is for the DTI and the Radio Communications Agency and the Health and Safety Executive, in their respective roles, to enforce matters relating to telecommunications and health.

It is concluded that the objections on the grounds of adverse impact on visual amenity, adverse impact on residential amenity, incongruous and obtrusive design and scale and failure to consider all alternative sites are supported.

e Recent decisions

Members will be aware of 2 recent refusals at appeal when replica telecommunications masts were not considered to be sufficiently well disguised to appear to be anything other than what they actually are. Simply calling a structure a replica does not render it visually comparable to the real object it seeks to copy.

Whilst every application and thus every appeal must be considered on its own merits, there is guidance to be taken from relevant case law. Two recent appeal decisions, in Dundee, were both dismissed on 17 August 2011. The first for a replica flagpole on the top of a building and the second for a replica telegraph pole in sports ground within a residential area. Both reporters referred to the perception of the mast for what it was, rather than as a replica.

Similarly, this proposed replica flagpole would be perceived as a telecommunications mast when viewed from the relative proximity of the surrounding streets and houses as well as from the wider views from higher ground.

It is concluded from the foregoing that the material considerations support refusal of planning permission. It is therefore recommended that planning permission is refused.

Design

The scale, massing and design of the proposed telecommunications mast in combination with the location of the application site will adversely affect the visual amenity of the application site as well as the level of environmental quality afforded to neighbouring residential properties.

CONCLUSION

The proposals fail to satisfy the requirements of the Development Plan. The material considerations support refusal of planning permission. The design of the proposed mast is not considered to be a replica flag pole but would appear as a tall white pole with the opportunity to fly a flag and it will be an incongruous, obtrusive structure that would look out of place in this otherwise attractive residential setting. It is therefore recommended that planning permission is refused.

RECOMMENDATION

It is recommended that consent be REFUSED for the following reason:

Reasons

- 1 The proposed development is contrary to Policy 1 - "Vibrant and Sustainable Communities" of the Dundee Local Plan Review 2005 as the scale, design, massing and location of the proposed telecommunications mast will have an incongruous appearance that will adversely affect the environmental quality enjoyed by local residents. There are no material considerations of sufficient strength to justify the granting of planning permission contrary to the policy.
- 2 The proposed development is contrary to Policy 1 of Dundee City Council's adopted Non-Statutory Planning Policies in Relation to Telecommunications Masts and Other Apparatus as the supporting statement fails to adequately justify why alternative sites are not suitable and hence justify the site selection process.
- 3 The proposed development is contrary to Policy 2 "Residential Areas" of Dundee City Council's adopted Non-Statutory Planning Policies in Relation to Telecommunications Masts and Other Apparatus as there is a general presumption against the siting of free standing masts in residential areas unless the proposal is sensitively sited and designed. By reason of the scale, design, massing and location the proposed telecommunications mast will have an incongruous

appearance and fails to comply with this requirement.

- 4 The proposed development is contrary to Policy 15 "Mast Sharing and Design Issues" of Dundee City Council's adopted Non-Statutory Planning Policies in Relation to Telecommunications Masts and Other Apparatus as the proposal fails to meet the location and design controls exercised by the Council by reason of the scale, design, massing and location the proposed telecommunications mast will have an incongruous appearance in relation to the surrounding residential area and is not considered appropriate for the application site.