

3 PLANNING APPEAL DECISIONS (AN129-2007)

(a) 11 Elie Avenue, Broughty Ferry, Dundee Extension to Dwellinghouse

Reference is made to Article 1(i) of the minute of meeting of this Committee of 22 May 2006 wherein the above proposal was refused planning permission because the Council considered that the proposal was contrary to Policy 14 of the adopted Dundee Local Plan Review 2005 due to the scale of the proposal and the adverse impact the extension would have on the amenity of neighbours (loss of daylight and sunlight).

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 representations and the decision was received by the Council on 20 March 2007. Copies of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be whether:

- i the proposal was consistent with the relevant provisions of the Development Plan; or
- ii whether an exception to the Plan was justified by other material considerations (in this case the views of local residents and any local precedents).

In summary the Reporter concluded that the proposal due to its proximity (1.5 metres) to the windows of a neighbouring property was likely to lead to the loss of daylight and sunlight and therefore adversely affect the amenity of that neighbour, contrary to criterion B of Policy 14.

The Reporter considered the other material considerations but found that none had sufficient weight to counterbalance the serious encroachment on the amenity of the neighbouring house, contrary to the Development Plan.

The appeal was DISMISSED and planning permission refused.

(b) Land South of Berwick Drive, Whitfield, Dundee, DD4 0XS Erection of 15 metre telecoms monopole, antennas and equipment cabinet

Reference is made to Article 1(c) of the minute of meeting of this Committee of 22 May 2006 wherein the above proposal was refused planning permission because the Council considered that the proposals would adversely affect the visual amenity of the area; would have an adverse impact on trees and would obscure sightlines for drivers (contrary to Policy 78 of the adopted Dundee Local Plan Review 2005).

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 representations and the decision was received by the Council on 15 March 2007. Copies of the decision letter can be found in the Members' Lounges.

The Reporter considered the determining issues to be:

- i Whether the proposal accorded with the provisions of the development plan; and if not;
- ii Whether an exception to such provision was justified by other material considerations.

In summary, the Reporter concluded that the applicant had considered a range of alternative locations and was restricted in the feasible options available for technical reasons if the facility were to deliver 3 G coverage; that the existing trees provided useful screening and were unlikely to be damaged by the proposal; and that the sightlines from Salton Crescent would be more than adequate. The nearby residential properties did not overlook the appeal site to any significant extent and in general the proposal satisfied the local plan objective of minimising the environmental impact on the city. The applicant had satisfactorily demonstrated that there was no better technically acceptable alternative location and that there was compliance with national policy advice and guidance.

Accordingly, the appeal was **UPHELD** with conditions relating to colour of the mast to be agreed; limitations on noise from the plant or equipment, and the removal of the equipment if it came obsolete or redundant.

Claims for expenses, which were made by both parties were rejected by the Reporter.

(c) Playing Field South of Ceres Crescent, Barnhill -22 Metre High Cypress Tree-Type Telecommunications Mast with Antennas and Equipment Cabinets

Reference is made to Article 1(b) of the minute of meeting of this Committee of 22 May 2006 wherein the above proposal was refused planning permission because the Council considered that the proposal

- a was contrary to the Council's non statutory policies (Policies 2 and 7) in connection with telecommunications apparatus as detailed in Policy 78 of the Dundee Local Plan Review (DLPR) 2005 (proximity to residential property and the playing field).
- b would adversely affect the retention and survival of healthy and mature trees contrary to Policy 72 of the DLPR.
- c would be contrary to Policy 1 of the DLPR (potential adverse impact on the amenity of local residents due to the structure's height and scale).

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 representations and the decision was received by the Council on 2 April 2007. Copies of the decision letter have already been circulated to all Members.

The Reporter considered the determining issues to be whether:

- iii the proposal was consistent with the provisions of the DLPR; and
- iv whether an exception to the provisions of the Plan was justified by other material considerations (in this case NPPG 19/PAN 62; the Council's non statutory policies; the circumstances of the appeal site; and the arguments submitted by the parties).

In summary the Reporter concluded that

- a. the appellants had demonstrated a requirement for a new base station;
- b. mast sharing options and alternative locations had been examined and discharged;
- c. the proposal, located in a wooded area and disguised as a "cypress tree" would not appear unduly obtrusive or out of context;
- d. the proposal's remote location from residential property reduced its likely visual impact on local residents;
- e. appropriate conditions could control any adverse impact on existing trees;
- f. any health concerns were satisfied by the submission of an ICNIRP Certificate and therefore this aspect was not a material consideration at this appeal.

Accordingly the appeal was **UPHELD** with conditions relating to removal of the installation if/when obsolete or redundant; details of tree removal and protection; details of future tree maintenance; details of programmes of work for construction and subsequent maintenance of the installation.

Claims for expenses by both parties were rejected by the Reporter.