

WHP Telecoms Limited.  
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**Decision date: 5 December 2023**

TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS  
**DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

Proposed telecommunications installation. Proposed 20.0m high EE / H3G Phase 7 Streetworks Pole on root foundation and associated ancillary works.  
At Proposed Telecoms Apparatus 35 Meters North Of 141 Newhaven Road Edinburgh

**Application No:** 23/02607/FUL

**DECISION NOTICE**

With reference to your application for Planning Permission registered on 22 June 2023, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

**Reason for Refusal:-**

1. The proposal is contrary to the Local Development Plan Policy Des 1 in respect of Design Quality and Context, as it would have a detrimental impact on the character and appearance of the site and surrounding area.
2. The proposal is contrary to the Local Development Plan Policy RS 7 in respect of Telecommunications, as it would have a detrimental visual impact on the application site and the surrounding area.

3. The proposal is contrary to LDP Policy Tra 9, in that it would adversely affect the safety of road users through the narrowing of the footpath.
4. The proposal is contrary to NPF 4 Policy 7, as it would have a detrimental impact on the character and appearance of the conservation area.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01-05, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposal is contrary to NPF4 and the LDP and is unacceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposals will not preserve the character and appearance of the conservation area. It would not have an unacceptable impact on amenity. There are no material considerations that outweigh this conclusion.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Conor MacGreevy directly at [conor.macgreevy@edinburgh.gov.uk](mailto:conor.macgreevy@edinburgh.gov.uk).



**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

## NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at [www.eplanning.scot](http://www.eplanning.scot) or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email [localreviewbody@edinburgh.gov.uk](mailto:localreviewbody@edinburgh.gov.uk).

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

# Report of Handling

**Application for Planning Permission  
Proposed Telecoms Apparatus 35 Metres North Of, 141 Newhaven  
Road, Edinburgh**

**Proposal: Proposed telecommunications installation. Proposed  
20.0m high EE / H3G Phase 7 Streetworks Pole on root foundation  
and associated ancillary works.**

**Item – Local Delegated Decision  
Application Number – 23/02607/FUL  
Ward – B04 - Forth**

## **Recommendation**

It is recommended that this application be **Refused** subject to the details below.

## **Summary**

The proposal is contrary to NPF4 and the LDP and is unacceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposals will not preserve the character and appearance of the conservation area. It would not have an unacceptable impact on amenity. There are no material considerations that outweigh this conclusion.

## **SECTION A – Application Background**

### **Site Description**

The application site forms part of a public path directly adjacent to the bowling green to the south of Victoria Park, north off the junction between Newhaven Road and Ferry Road.

### **Description Of The Proposal**

The proposal is for the installation of a 20 metre high monopole telecommunication mast with related cabinets.

### **Relevant Site History**

No relevant site history.

## Other Relevant Site History

No other relevant history.

## Consultation Engagement

Roads Authority.

Edinburgh World Heritage

## Publicity and Public Engagement

**Date of Neighbour Notification:** 5 December 2023

**Date of Advertisement:** 30 June 2023

**Date of Site Notice:** 30 June 2023

**Number of Contributors:** 268

## Section B - Assessment

### Determining Issues

Due to the proposed development falling within a conservation area, this report will first consider the proposals in terms of Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development conflicting with the objective of preserving or enhancing the character or appearance of the conservation area?
- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 24, 25 and 37 of the Town and Country Planning (Scotland) Act 1997 (the 1997 Act):

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) & Edinburgh Local Development Plan 2016 (LDP) the newer policy shall prevail.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the development plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- equalities and human rights;
- public representations; and

- any other identified material considerations.

## **Assessment**

To address these determining issues, it needs to be considered whether:

### **a) The proposals harm the character or appearance of the conservation area?**

The following HES guidance is relevant in the determination of this application:

- Managing Change - Conservation Areas.

The proposal would have a detrimental impact on the character and appearance of the Victoria Park Conservation Area by virtue of it constituting an incongruous addition to the streetscene. It would create a visual barrier when viewed from the public realm and would significantly disrupt views towards the city.

## **Conclusion in relation to the conservation area**

The proposal would have a detrimental impact on the character and appearance of the conservation area and would be unacceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

### **a) The proposals comply with the development plan?**

National Planning Framework 4 (NPF4) was adopted by the Scottish Ministers on 13 February 2023 and forms part of the Council's Development Plan. NPF4 policies supports the planning and delivery of Sustainable Places, Liveable Places and Productive Places and are the key policies against which proposals for development are assessed. Several policies in the Edinburgh Local Development Plan (LDP) are superseded by equivalent and alternative policies within NPF4. The relevant policies to be considered are:

- LDP Des Policy Des 1
- LDP Digital Infrastructure Policy RS 7.
- LDP Transport Policy Tra 9.
- NPF4 Policy 1
- NPF4 Policy 7

## Principle, Scale, Form & Design

Within National Planning Framework 4 (NPF 4) the Scottish Government has set out its aspirations for the roll out of the most up to date connectivity. Councils are encouraged to support digital infrastructure improvements, where possible, to reduce gaps in connectivity and barriers to access.

The improvements in infrastructure would have the potential for more people to work from home and reduce the need to travel to work, thereby reducing carbon emissions from vehicles.

In terms of the design, the proposal would be unacceptable in that the introduction of a mast in this location would have a detrimental impact on the character and appearance

of the application site and the surrounding conservation area. The proposal would represent an incongruous feature that would create a visual barrier that would disrupt views towards the city.

This is contrary to NPF4 Policies 7 and LDP Policies RS 7 and Des 1. It would have a neutral impact in terms of NPF4 Policy 1.

#### Amenity/Health

The Scottish Government has recently published a position statement in relation to perceived health threats from telecommunications apparatus. It states that In the UK and internationally, independent expert groups have examined the accumulated research evidence. The conclusions of these groups support the view that there is no convincing evidence that radio frequency field exposures below international guideline levels (ICNIRP) cause health effects in either adults or children.

This application includes a submission confirming that the development would comply with ICNIRP, and accordingly it is concluded that the proposal would not have an adverse effect on the health of residents.

This complies with LDP Policy RS 7 in terms of health.

#### Roads Authority

The Roads Authority was consulted and could not support the proposal by virtue of it creating a physically barrier which would adversely restrict the footway to an unacceptable degree.

This would be contrary LDP Policy Tra 9.

### **Conclusion in relation to the Development Plan**

The proposal is contrary to NPF4 Policy 7 and LDP Policies RS 7, Tra 9 and Des 1.

#### **c) There are any other material considerations which must be addressed?**

The following material planning considerations have been identified:

#### Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations made, to be submitted with the Proposed City Plan 2030 and its supporting documents for Examination in terms of Section 19 of the Town and Country Planning (Scotland) Act 1997. At this time little weight can be attached to it as a material consideration in the determination of this application.

#### Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

### Public representations

Two hundred and sixty eight comments were received (Objections).

The main theme of the objections relate to the impact on the character and appearance of the application site and surrounding area and health concerns around the proposal; these have been addressed in sections a) and b).

### **Conclusion in relation to identified material considerations**

These have been addressed above.

### **Overall conclusion**

The proposal is contrary to NPF4 and the LDP and is unacceptable with regards to Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The proposals will not preserve the character and appearance of the conservation area. It would not have an unacceptable impact on amenity. There are no material considerations that outweigh this conclusion.

## **Section C - Conditions/Reasons/Informatives**

The recommendation is subject to the following;

### **Reason for Refusal**

1. The proposal is contrary to the Local Development Plan Policy Des 1 in respect of Design Quality and Context, as it would have a detrimental impact on the character and appearance of the site and surrounding area.
2. The proposal is contrary to the Local Development Plan Policy RS 7 in respect of Telecommunications, as it would have a detrimental visual impact on the application site and the surrounding area.
3. The proposal is contrary to LDP Policy Tra 9, in that it would adversely affect the safety of road users through the narrowing of the footpath.
4. The proposal is contrary to NPF 4 Policy 7, as it would have a detrimental impact on the character and appearance of the conservation area.

### **Background Reading/External References**



To view details of the application go to the [Planning Portal](#)

**Further Information** - [Local Development Plan](#)

**Date Registered: 22 June 2023**

**Drawing Numbers/Scheme**

01-05

Scheme 1

**David Givan**  
**Chief Planning Officer**  
**PLACE**  
**The City of Edinburgh Council**

Contact: Conor MacGreevy, Planning Officer  
E-mail: [conor.macgreevy@edinburgh.gov.uk](mailto:conor.macgreevy@edinburgh.gov.uk)

## Appendix 1

### **Consultations**

NAME: Roads Authority.

COMMENT: The proposal cannot be supported as it would adversely restrict the available width of the foot way.

DATE: 23 June 2023

NAME: Edinburgh World Heritage

COMMENT: No objections.

DATE: 27 November 2023

The full consultation response can be viewed on the Planning & Building Standards Portal.

## Appendix 2

### **Application Certification Record**

#### **Case Officer**

I have assessed the application against the City of Edinburgh Council's Scheme of Delegation (2023) Appendix 6 – Chief Planning Officer and the Statutory Scheme of Delegation (2023) and can confirm the application is suitable to be determined under Local Delegated Decision, decision-making route.

Case Officer: Conor MacGreevy

Date: 23 November 2023

#### **Authorising Officer**

To be completed by an officer as authorised by the Chief Planning Officer to determined applications under delegated powers.

I can confirm that I have checked the Report of Handling and agree the recommendation by the case officer.

Authorising Officer (mRTPI): Alan Moonie

Date: 5 December 2023

## MEMORANDUM

**To:** Planning Officer  
Local1 Team

**From:** Transport  
Matthew Simpson

**Our Ref:** 23/02607/FUL

**23/02607/FUL  
PROPOSED TELECOMS APPARATUS 35 METERS NORTH OF 141  
NEWHAVEN ROAD  
NEWHAVEN  
EDINBURGH**

### TRANSPORT CONSULTATION RESPONSE

#### Summary Response

The application should be continued.

#### Full Response

Whilst the principle of the proposed development is acceptable, the location of the equipment is considered to adversely restrict the available width of footway. The proposed equipment should be relocated northwards to provide a minimum of 1.2m footway (2m desirable minimum).

*Matthew Simpson*

**TRANSPORT  
Matthew Simpson  
Senior Transport Officer**