



An
Bord
Pleanála

Inspector's Report ABP-314512-22

Development	Alterations to existing chimney to facilitate telecommunications equipment installation and all associated works.
Location	76 Thomas Street, Dublin 8 – a Protected Structure
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4203/22
Applicant(s)	Vantage Towers Ltd
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Vantage Towers Ltd
Observers	None
Date of Site Inspection	8 th June 2023
Inspector	Margaret Commame

1.0 Site Location and Description

- 1.1. The site, at No. 76 Thomas Street, Dublin 8, is located on the southern side of Thomas Street and has a stated site area of 8707sqm. On site is a four-storey over basement Georgian Building, built in 1868, which is a Protected Structure (RPS No. 8166). This building is currently occupied by offices.
- 1.2. The immediate area along Thomas Street, to the north, east and west of the site, comprises of substantial Georgian Buildings (a number of which are also Protected Structures) in retail/commercial/mixed uses, with some residential uses evidenced on upper floors facing Thomas Street. The subject site falls within the Thomas Street and Environs Architectural Conservation Area.

2.0 Proposed Development

- 2.1. Planning Permission is sought for alterations to the existing rear chimney to facilitate the installation of telecommunications equipment upon the building rooftop and all associated works at No. 76 Thomas Street, Dublin 8, a Protected Structure (RPS No. 8166). More specifically, it is proposed to extend the blockwork of the existing chimney and introduce a shroud/'fake chimney' to the existing chimney, resulting in a 1.2 metre increase in the height, 1.2 metre increase in the width and 0.44 metre increase in the depth of the existing chimney, to hide 3 no. 2.54 metre tall antennas being installed on and 1 no. 300mm diameter dish currently installed on the existing chimney. The proposed shroud will be made of glass reinforced plastic and replicate the plastered look of the existing chimney. The antennas and dish will be connected to cables contained inside an existing cable tray already running up the rear of the building, which connect to equipment cabinets located within the basement.
- 2.2. Existing unauthorised telecoms equipment attached to a chimney stack located at the front of the building will be removed and relocated to a chimney stack at the rear building under the subject proposal.

3.0 Planning Authority Decision

3.1. Decision

On 5th August 2022, the Planning Authority decided to refuse the development sought under this application for the following stated reasons:

- 1. The proposal to remove elements of this historic building which makes a positive contribution to the existing character and the setting of the Protected Structure, and the proposed new work which would seriously injure the historic fabric and does not relate sensitively to the architectural detail and character of the original structure, is contrary to Policy 11.1.5 CHC1 and Section 11.1.5.1 CHC2 (a)(b)(c) of the Dublin City Council Development Plan 2016-2022 and would set an undesirable precedent for similar future developments in the vicinity which would, therefore be contrary to the proper planning and sustainable development of the area.*
- 2. The proposal would injure the special architectural character, and the amenities and setting of the Thomas Street and Environs Architectural Conservation Area. The proposal would therefore contravene Policy 11.1.5.4 CHC4 of the Dublin City Council Development Plan 2016-2022 would set an undesirable precedent for similar future developments in the vicinity which would, therefore be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Report

- Existing unauthorised telecoms equipment is attached to a chimney stack located at the front of the building. Under the subject proposal, this will be removed and relocated to a chimney stack at the rear building which will be extended in height by 1.2m in order to support and hide the telecommunications equipment.
- In light of Section 16.33.1 of the Dublin City Development Plan 2016-2022, it is considered that there is a presumption in policy against the siting of telecommunications equipment on or close to Protected Structures or within Architectural Conservation Areas.

- Regarding the proposed works to the Protected Structure, the Conservation Officer has advised that both in terms of the principal of any or additional telecommunication devices on this roof and the associated proposed revision to the chimney is not supported. Both the manner in which the chimney is being revised (increased by 1.2m in height) and the materials described as 'proposed shroud / fake chimney to replicate the look of an existing chimney' are not appropriate in this setting.
- The applicant's assertion that the proposal would improve/enhance the Protected Structure has not been substantiated. The existing antennae structures are unlawful and should be removed in any event as per the enforcement notice, therefore the proposal would not result in a betterment or planning gain.

3.2.2. **Other Technical Reports**

Drainage Division (01/07/22): No objection, subject to condition.

Conservation Section (25/06/2022): Recommended that the application be refused for the following reasons:

1. *The proposal to remove elements of this historic building which makes a positive contribution to the existing character of the setting is contrary to Policy 11.1.5 CHC1 of the Dublin City Council Development Plan 2016-2022 and would set an undesirable precedent.*
2. *The proposal would injure the special architectural character, and the amenities and setting of the Conservation Area. The proposal would therefore contravene Policy 11.1.5.4 CHC4 of the Dublin City Council Development Plan 2016-2022 and would set an undesirable precedent.*
3. *The proposed works would seriously injure the architectural character of both the streetscape and the setting of the Protected Structure and would give rise to the loss of original historic fabric and character. The proposed works contravene DCC Development Plan 2016-2022 Policy CHC2 and Section 16.10.18, and 13.4.3 of the Architectural Heritage Protection Guidelines 2011.*
4. *Having regard for Section 11.1.5.1 CHC2 (a)(b)(c) of the Dublin City Council Development Plan 2016-2022; the proposal would seriously injure the historic*

fabric and special architectural character of the Protected Structure as the new work does not relate sensitively to the architectural detail and character of the original structure.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland: No observations to make on the proposed development but asks that if the above application is successful a condition requiring payment of a Section 49 Levy (associated with Luas) be included, unless exempted.

3.4. **Third Party Observations**

No third-party observations were received by the Planning Authority during the consultation period for the application.

4.0 **Planning History**

4.1. **Subject Site**

4.1.1. The following previous application pertaining to the subject site are of relevance:

PA Reg. Ref. 3347/23 (Appeal Reference ABP-317220-23)

This application relates to an application for (in summary): - (i) the refurbishment and change of use of the existing property on site from commercial (office) use to short-stay residential use through the provision of 4 no. 1-bedroom short-stay apartment units, one at each level from ground to third floor levels. The proposed works to facilitate this change of use include internal modifications and reconfiguration from ground to third floor levels and the following external works: - (i) the provision of a new communal bin store to be located in the rear open space area; (ii) removal, replacement and increase in the size of 2 no. existing high level windows at first floor level to the rear and amendments to the associated cills; (iii) removal, replacement and increase in the size of 1 no. non-original sash window at third floor level to the rear and amendments to associated cill; (iv) removal of security bars from windows to the rear; (v) removal of existing soil pipes to the rear elevation; and (vi) all associated ancillary works necessary to facilitate the proposed development.

Permission was refused by Dublin City Council on 3rd May 2023 for the following reasons:

- 1. It is considered that the proposed short-stay residential use would exacerbate the existing overconcentration of visitor accommodation along Thomas Street and the wider Liberties area and would fundamentally undermine the vision of the City Development Plan for the provision of a dynamic mix of uses within the city centre and fail to sustain the vitality of the inner city. The proposal would therefore be contrary to Policy CC8 Visitor Accommodation of the Dublin City Development Plan 2022-2028 and if permitted would be contrary to the proper planning and sustainable development of this location.*
- 2. The proposed development would be contrary to Section 15.14.3: Short Term Tourist Rental Accommodation of the Dublin City Development Plan 2022-2028 which states that there is a general presumption against the provision of dedicated short term tourist rental accommodation in the city due to the impact on the availability of housing stock. The proposal would therefore, if permitted would be contrary to Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of this location.*

The Planning Authorities decision has been appealed to An Bord Pleanala by the applicant (Appeal Reference ABP-317220-23). A determination had not been made on this appeal at the time of writing this report.

PA Reg. Ref. 4173/18

This application involved a proposal for the cleaning of existing surfaces of smoke damage internally, removal of non-original fittings and doorset from entrance lobby, provision of new glazed lobby within ground floor room, replacement of the existing plasterboard ceiling to ground floor with new fire rated plasterboard ceiling after the replacement of electrical installation, upgrade of fire rating of original panelled timber doors, removal of non-original blocked opening to rear of ground floor and replacement with new double-glazed timber screen, removal of non-original timber steps accessing the basement and replacement with new timber steps, provision of fire rated glazed lobby screens to first and second floor landings, provision of fire rated curtain to attic space, cleaning of staining to granite facade, replacement of mechanical and electrical services, redecoration on completion with breathable paint to external walls, repair of glazed pavement light to Thomas St. and associated site works.

Permission was granted by Dublin City Council in December 2018.

PA Reg. Ref. 4140/15 (Appeal Ref. PL29S.246247)

This application sought retention permission for existing telecommunications equipment located on the rooftop, consisting of antennas and dishes mounted on support poles fixed to existing chimneys, and associated equipment including associated equipment cabinets located in basement.

Retention permission was refused by Dublin City Council in February 2016. The Planning Authorities decision was appealed to An Bord Pleanála by the applicant (Appeal Reference PL29S.246247). The development was refused by the Board in May 2016 for the following reason:

'Having regard to the provisions of the "Telecommunications Antennae and Support Structures Guidelines for Planning Authorities" issued by the Department of the Environment and Local Government in 1996, as amended by Circular Letter PL 07/12 relating to Telecommunications Antennae and Support Structures Guidelines and to the status of 76 Thomas Street as a protected structure, it is considered that the development proposed to be retained would adversely affect the Architectural Conservation Area in which the telecommunications mast is located and would have an adverse impact on the character, setting and integrity of the protected structure. The development proposed to be retained would, therefore, would set an undesirable precedent for similar future developments in the vicinity and would be contrary to the proper planning and sustainable development of the area.'

PA Reg. Ref. 1383/08

This application involved a proposal for the construction of a 3 storey rear office extension including roof terraces to the rear, alterations to opes to the south elevation at ground, 1st and 2nd floor level, installation of a glazed screen on south elevation at ground floor level, minor internal alterations including the removal of non-original toilets and tea station from existing building, renewal of services and redecoration together with repair of stone corning parapets and pointing of front elevation of a protected structure.

Permission was granted by Dublin City Council in March 2008.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

The subject application was originally assessed having regard to the Dublin City Development Plan 2016-2022. This has subsequently expired.

5.2. Dublin City Development Plan 2022-2028

In the intervening period since the subject application was determined, the Dublin City Development Plan 2022-2028 has been adopted by the elected members on 2nd November 2022 and came into effect on 14th December 2022. The relevant provisions are discussed in turn below.

5.2.1. Land Use Zoning

The site is zoned 'Z5 – City Centre' in the Dublin City Development Plan 2022-2028 with a stated objective to '*consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity*'. The Development Plan details the following purpose/strategy in relation to this zoning objective: - '*the primary purpose of this use zone is to sustain life within the centre of the city through intensive mixed-use development. The strategy is to provide a dynamic mix of uses which interact with each other, help create a sense of community, and which sustain the vitality of the inner city both by day and night.*'

5.2.2. Other Relevant Sections/Policies

The building featuring on site is a Protected Structure (RPS. No. 8166) and the subject site falls within the Thomas Street and Environs Architectural Conservation Area and an area identified as an archaeological zone. The National Inventory of Architectural Heritage has surveyed the subject building (NIAH Ref. 50080568) and deemed it to be of architectural, artistic, historical and social interest as well as affording it a regional rating. Further to this, the buildings featuring on Thomas Street, to the east and west of the subject site, are also Protected Structures and fall within the Thomas Street and Environs Architectural Conservation Area/an archaeological zone.

The following policies are considered relevant to the consideration of the subject proposal:

Section 9.5.11 - Policy SI45: Support for Digital Connectivity

'To support and facilitate the sustainable development of high-quality digital connectivity infrastructure throughout the City in order to provide for enhanced and balanced digital connectivity that future-proofs Dublin City and protects its economic competitiveness (for further guidance see Section 15.18.5).'

Section 11.4 - The Strategic Approach

In order to ensure the protection and enhancement of the city's built heritage, the following strategic approach will be pursued:

- *The preservation of the built heritage and archaeology of the city that makes a positive contribution to the character, appearance, and quality of local streetscapes and the sustainable development of the city.*
- *Enhance, integrate and protect the special physical, social, economic and cultural value of built heritage assets through appropriate and sensitive development to ensure their preservation for existing and future generations.*
- *Ensure buildings of architectural and historic interest are protected and include those structures that are considered, in the opinion of the Planning Authority, to be of special architectural, historical, archaeological, artistic, cultural, scientific, technical or social interest in the Record of Protected Structures.*

Section 11.5.1 - Policy BHA2: Development of Protected Structures

'That development will conserve and enhance protected structures and their curtilage and will:

- (a) Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities (2011) published by the Department of Culture, Heritage and the Gaeltacht.*
- (b) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.*
- (c) Ensure that works are carried out in line with best conservation practice as advised by a suitably qualified person with expertise in architectural conservation.*

- (d) Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.*
- (e) Ensure that the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does not adversely impact the curtilage or the special character of the protected structure.*
- (f) Respect the historic fabric and the special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.*
- (g) Ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the protected structure.*
- (h) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.*
- (i) Ensure historic landscapes, gardens and trees (in good condition) associated with protected structures are protected from inappropriate development.*
- (j) Have regard to ecological considerations for example, protection of species such as bats.*

Section 11.5.2 - Policy BHA7: Architectural Conservation Areas

- (a) To protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area, and its setting, wherever possible. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA. Please refer to Appendix 6 for a full list of ACAs in Dublin City.*
- (b) Ensure that all development proposals within an ACA contribute positively to the character and distinctiveness of the area and have full regard to the guidance set out in the Character Appraisals and Framework for each ACA.*
- (c) Ensure that any new development or alteration of a building within an ACA, or immediately adjoining an ACA, is complementary and/or sympathetic to their*

context, sensitively designed and appropriate in terms of scale, height, mass, density, building lines and materials, and that it protects and enhances the ACA. Contemporary design which is in harmony with the area will be encouraged.

(d) Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.

(e) Promote sensitive hard and soft landscaping works that contribute to the character and quality of the ACA.

(f) Promote best conservation practice and encourage the use of appropriately qualified professional advisors, tradesmen and craftsmen, with recognised conservation expertise, for works to buildings of historic significance within ACAs.

All trees which contribute to the character and appearance of an Architectural Conservation Area, in the public realm, will be safeguarded, except where the tree is a threat to public safety, prevents universal access, or requires removal to protect other specimens from disease.

Section 15.15.2.2 – Conservation Areas

All planning applications for development in Conservation Areas shall:

- Respect the existing setting and character of the surrounding area.*
- Be cognisant and/ or complementary to the existing scale, building height and massing of the surrounding context.*
- Protect the amenities of the surrounding properties and spaces.*
- Provide for an assessment of the visual impact of the development in the surrounding context.*
- Ensure materials and finishes are in keeping with the existing built environment.*
- Positively contribute to the existing streetscape Retain historic trees also as these all add to the special character of an ACA, where they exist.*

Section 15.18.5 - Telecommunications and Digital Connectivity

‘Telecommunications antennae and supporting structures should preferably be located on industrial estates or on lands zoned for industrial/employment uses. Possible locations in commercial areas, such as rooftop locations on tall buildings, may also be acceptable, subject to visual amenity considerations. In terms of the

design of free-standing masts, masts and antennae should be designed for the specific location.

In assessing proposals for telecommunication antennae and support structures, factors such as the object in the wider townscape and the position of the object with respect to the skyline will be closely examined. These factors will be carefully considered when assessing proposals in a designated conservation area, open space amenity area, historic park, or in the vicinity of protected buildings, special views or prospects, monuments or sites of archaeological importance. The location of antennae or support structures within any of these areas or in proximity to protected structures, archaeological sites and other monuments should be avoided.'

5.3. Thomas Street & Environs Architectural Conservation Area (2009)

5.3.1. The site is located in the Thomas Street & Environs Architectural Conservation Area. Thomas Street is described as a broad commercial thoroughfare with an imposing presence. Its building stock is deemed to generate a strong sense of enclosure, the street lined on both sides by four storey structures punctuated by both lower and taller buildings, lending the street a varied, undulating quality.

5.3.2. Section 6.2.7 provides the following guidance in relation to skyline clutter pertaining to alarm boxes, electrical wiring, TV aerials and satellite dishes: - *'such utilities can have a particularly damaging effect on the streetscape quality and character of the historic realm and can lead to visual clutter.... Building fixtures such as alarm boxes, electrical cabling and most significantly TV aerials should be carefully located to minimise visual impact.'*

5.4. Architectural Heritage Protection Guidelines for Planning Authorities (2011)

5.4.1. The subject site features a Protected Structure (RPS. No. 8166) and falls within the Thomas Street and Environs Architectural Conservation Area. Therefore, the 'Architectural Heritage Protection, Guidelines for Planning Authorities' are considered relevant. These guidelines are issued under Section 28 and Section 52 of the Planning and Development Act 2000. Under Section 52 (1), the Minister is obliged to issue guidelines to planning authorities concerning development objectives: a) for protecting structures, or parts of structures, which are of special architectural, historical,

archaeological, artistic, cultural, scientific, social, or technical interest, and b) for preserving the character of architectural conservation areas.

5.4.2. The guidelines provide guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting protected structures or within an Architectural Conservation Area. The guidelines seek to encourage the sympathetic maintenance, adaption and reuse of buildings of architectural heritage. Section 9.4.10 of the Guidelines identifies chimney stacks and pots are important elements of the roofline of a building and Section 9.4.11 encourages the retention of chimneys, together with their pots where their appearance is important to the appreciation of the building as a whole.

5.5. Guidelines for Planning Authorities on Telecommunications Antennae and Support Structures, 1996

5.5.1. These guidelines provide guidance for telecommunications installations and they provide advice in relation to design and siting, visual Impact, sharing facilities and clustering, and health and safety. In the vicinity of larger towns and in city suburbs operators are encouraged to locate in industrial estates or in industrially zoned land. Possibilities are also considered to be offered by some commercial or retail areas whether as rooftop locations or by way of locating “disguised” masts.

5.5.2. Visual impact is identified as one of the more important considerations which have to be taken into account in arriving at a decision on a particular application. While it deems that the mounting of antennae can generally be facilitated on buildings or other structures in urban areas (centre city), Section 4.3 states that *‘proximity to listed buildings, archaeological sites and other monuments should be avoided.’*

5.6. Circular PL07/12 - Telecommunications Antennae and Support Structures Guidelines

5.6.1. Circular Letter PL07/12 revised elements of the 1996 Guidelines under Sections 2.2 to 2.7 with no change to the information summarised above.

5.7. Circular PL03/2018 – Revision of Development Contribution Guidelines in respect of Telecommunications Infrastructure

5.7.1. This circular extended the specific waiver and reduction in development contribution charges previously introduced in the context of broadband infrastructure (masts and antennae) to include mobile phone infrastructure for the purpose of assisting in improving mobile phone coverage in areas, including in rural areas. Specifically, it is stated – This waiver shall apply to any telecommunications infrastructure, both mobile and broadband, being deployed as part of a Government endorsed telecommunications strategy, plan or initiative. Where mobile or broadband operators demonstrate to the satisfaction of the planning authority that their infrastructure provides services to customers who would not otherwise be able to avail of an adequate mobile or broadband service, such infrastructure shall not attract development contributions. Furthermore, the waiver applies to masts, antennae, dishes and other apparatus or equipment being installed for such communication purposes.

5.8. Natural Heritage Designations

5.8.1. The proposed development is not located within or immediately adjacent to any European site. The nearest European site is the South Dublin Bay SAC (Site Code 000210) located c. 4 kilometres east.

5.9. EIA Screening

5.9.1. Having regard to the nature and scale of the proposed development and its location in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for Environmental Impact Assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The applicant contends that the exact nature of the installation has not been properly explained or understood. It is not the intention to remove elements of this historic building. As such, the proposal will not injure the historic fabric of the building.
- Further to this, the proposal is designed to specifically relate to the architectural and character of the original structure in a sensitive manner. Therefore, it is submitted that the proposal is not contrary to Policy 11.1.5 CHC1 and Section 11.1.5.1 CHC2 (a)(b)(c) of the Dublin City Council Development Plan 2016-2022 and instead meets the aims set out in Section 9.5.11 in relation to the provision of telecommunications infrastructure.
- The visual impact of the proposal is minimal and it will rarely be seen from the street level along Thomas Street and will not be seen from adjacent streets. This is due to the installation being set back from the front of the building and due to the height of the buildings along the street. Therefore, the proposal would not injure the special architectural character, and the amenities and setting of the Thomas Street and Environs Architectural Conservation Area.
- Technology in this area has evolved over the years, meaning upgrades to existing telecommunication infrastructure are necessary, and demand has increased rapidly. Requirements for coverage makes site location for new infrastructure difficult. Line of sight to/from the antennae is required to facilitate the transmission/receipt of data. The subject building, due to it being taller than those adjacent, enables the necessary line of sight to be provided.
- The investment required to provide such a structure is substantial and not entered in to lightly. It is understood that Vodafone has been present on the site since c. 2005 and the catchment area for service is now established. To replace the site and secure the same coverage is not possible.

- Vodafone have taken on board the previous refusals under PA Reg. Ref. 4140/15 and Appeal Ref. PL29S.246247 in designing the subject proposal.
- Neither the front or rear chimney are in use today for the purposes of fume extraction. Unlike the front chimney, the rear chimney does not include any ornate features associated with the façade. It is a smaller chimney to the one at the front and is concrete rendered. Given the positioning of the rear chimney and its distance from the front chimney, it is not considered that the proposed alterations will detract from the existing arrangement.
- The proposed development complies with the relevant objectives/policies included in the Development Plan as well as the Guidelines for Planning Authorities on Telecommunications Antennae and Support Structures, 1996. The importance of such telecommunications infrastructure is acknowledged in national planning policy.
- If the subject building was not a Protected Structure, installation of the proposed structures would not require planning permission. It would otherwise constitute exempted development pursuant to Class 31K.
- Due to its siting and size, as well as the need for coverage, the subject building is ideal for installation of such telecommunications infrastructure. The proposed chimney extension will shield the proposed infrastructure from view, thus reducing its visual impact. The appellant contends that there will be limited views of the proposed development from adjacent streets.
- The current proposal takes account of the subject building being a Protected Structure. It does not involve the removal of any aspect of the building and can be installed/removed with no damage to the integrity of the building.

6.2. Planning Authority Response

- None.

6.3. Observations

- None.

6.4. Further Responses

- None.

7.0 Assessment

From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- Principle of Development
- Built Heritage/Visual Impact
- Residential Amenity
- Other Matters
- Appropriate Assessment

7.1. Principle of Development

7.1.1. The subject site is located within an area zoned 'Z5 – City Centre' and the subject building is a Protected Structure (RPS No. 8166) located within the Thomas Street and Environs Architectural Conservation Area. As per Section 14.7.5 of the Dublin City Development Plan 2022-2028, 'public service installation' is a permissible use under the Z5 zoning. The definition of 'a public service installation' is set out in Appendix 15 of the Development Plan and includes telecommunications. A 'permissible use' is one which is generally acceptable in principle in the relevant zone, but which is subject to normal planning consideration, including policies and objectives outlined in the plan (as per 14.3.1 of the Development Plan). I am satisfied that the proposed development is a use that is permissible in Z5 zones.

7.1.2. The need to facilitate improved telecommunications infrastructure is advocated for in Section 9.5.11 of the Dublin City Development Plan 2022-2028 and under National Guidelines in the form of the Telecommunication Antennae and Support Structures: Guidelines for Planning Authorities (1996). Section 15.18.5 of the Development Plan and the Guidelines for Planning Authorities on Telecommunications Antennae and Support Structures, 1996, indicate that where possible telecommunications infrastructure should be located in industrial estates or on lands zoned for industrial/employment uses and that locations in commercial areas, such as rooftop locations on tall buildings, may also be acceptable, subject to visual amenity

considerations. However, locations on or adjacent to protected structures should be avoided. Although it is not stated explicitly, I would consider that this implies that a proposal on a Protected Structure should clearly demonstrate that there are no reasonable alternative sites and that there should be a clear demonstration that no material harm is done to either the structure or setting of a protected structure.

7.1.3. In terms of alternative sites, a cover letter accompanying the application and the appeal submission provided justification for the proposal. It is submitted that the proposed equipment is needed to ensure continuity of service in Thomas Street and the surrounding area following the removal of unauthorised equipment currently featuring on the front chimney of the subject building (which is the subject of enforcement action). Telecommunications equipment of some form or another has been on the subject roof since before 2005 it is estimated and as a result the subject site has become a key location in terms of mobile and broadband services. With regards to site sharing/clustering, there are no other structures within the required area that could accommodate such an arrangement. As the subject building is taller than those adjoining and many others in the immediate area, it enables line of sight to be secured to connect the installation into the network and enables a greater propagation of signal into other buildings/along the streets. Few other buildings provide such an opportunity and to replace the subject site/secure the same coverage is not deemed possible.

7.1.4. While Protected Structures should be generally avoided, I am satisfied having examined the relevant local and national planning policies, the location of the existing telecommunications structures on the site and the justification submitted with the application/appeal, that there is sufficient justification for the provision of telecommunications infrastructure on the subject rooftop. Accordingly, I would consider that the subject site is generally suitable for the development proposed subject to further consideration below on the architectural character/visual amenity of the area.

7.2. **Built Heritage/Visual Impact**

7.2.1. As previously outlined, the house featuring on site is a Protected Structure (RPS. No. 8166) and the subject site falls within the Thomas Street and Environs Architectural

Conservation Area. The proposal entails the following alterations to the existing rear chimney to facilitate the installation of telecommunications equipment upon the building rooftop: - extension of the blockwork of the existing chimney and introduction of a shroud/'fake chimney' to the existing chimney, resulting in a 1.2 metre increase in the height, 1.2 metre increase in the width and 0.44 metre increase in the depth of the existing chimney, to hide 3 no. antennas being installed on and 1 no. dish currently installed on the existing chimney. The proposed shroud will be made of glass reinforced plastic and replicate the plastered look of the existing chimney.

7.2.2. In its decision to refuse permission, the Planning Authority has referenced Policy CHC1, regarding preservation of the built heritage; Policy CHC2, regarding Protected Structures; and Policy CHC4, regarding Conservation Areas, of the Dublin City Council Development Plan 2016-2022. They concluded that the proposed development would seriously injure the historic fabric of the original structure, does not relate sensitively to the architectural detail/character of the original structure and would injure the special architectural character/amenities/setting of the Thomas Street and Environs Architectural Conservation Area. Given this, they contended it would set an undesirable precedent for similar future developments in the vicinity.

7.2.3. Although the Dublin City Development Plan 2016-2022 has expired in the intervening period since this application was determined, I note that similar strategies and policies pertaining to preservation of the built heritage, works to a Protected Structure and development within Architectural Conservation Areas feature in the recently adopted Dublin City Development Plan 2022-2028, in Section 11.4 and at Policies BHA2 and BHA7. More specifically, Section 11.4 seeks the preservation of the built heritage and archaeology that makes a positive contribution to the character, appearance, and quality of local streetscapes/the sustainable development of the city, Policy BHA2 seeks to protect Protected Structures from any works that would negatively impact their special character/appearance and Policy BHA7 seeks to ensure that all development proposals within Architectural Conservation Areas are appropriate to the character/special interest of the area. Therefore, the appropriateness of the proposed works in the context of built heritage and the Protected Structure/Architectural Conservation Area still requires consideration in relation to the subject application

pursuant to the Development Plan, as well as the Architectural Heritage Guidelines, 2011.

- 7.2.4. The applicants contend that the proposal will not injure the historic fabric of the building, the rear chimney being setback considerably from the front façade/being devoid of any ornate features associated with the façade and that the visual impact of the proposal is minimal as it will rarely be seen from the street level along Thomas Street and will not be seen from adjacent streets.
- 7.2.5. Section 15.18.5 of the Development Plan refers to the provision and siting of telecommunications antennae. The siting of such structure should preferably be on industrial estates or on lands which are zoned for industrial/employment uses but possible locations in commercial areas such as rooftop locations on tall buildings may also be acceptable subject to visual amenity considerations. The location of antennae or support structures within designated conservation areas or in proximity to protected structures should be avoided.
- 7.2.6. The main question in the context of the subject proposal is will the architectural heritage of the Protected Structure and the Architectural Conservation Area be significantly or detrimentally impacted upon as a result of the alterations to the existing rear chimney proposed to facilitate the installation of telecommunications equipment. Having reviewed the application material and visited the site, I am satisfied that proposed development could be successfully introduced on the rooftop without such significant or detrimental impact occurring. In terms of the Protected Structure, the chimney involved in the proposed works is located to the rear of the building, setback 2.95 metres from the rear building façade, 9.6 metres from the front building façade and 4.95 metres from the front chimney. Unlike the chimney featuring to the front of the building, it is concrete rendered/devoid of ornate features associated with the decorative front façade, as well as being smaller in size/height. Therefore, I do not consider the proposal will result in an unreasonable loss of historic fabric and the proposed works to the chimney will have minimal impact on the character, setting and integrity of the Protected Structure. In terms of the wider Architectural Conservation Area/streetscape, as the applicable chimney is positioned in the rear part of the roof, the proposed works will not be visible from Thomas Street. Further to this, as observed during my site inspection, due to the confined nature of sites/intensity of development

in this area, views of the proposed works from surrounding streets, including Francis Street to the east, Swifts Alley to the south and the access road serving Chadwicks Builders Merchants to the west, would be impeded. As such, I am of the view that the proposed development is acceptable and will not have a negative visual impact on the streetscape and on the integrity of this Protected Structure/Architectural Conservation Area. Therefore, it is recommended that the Board grant permission in this instance.

- 7.2.7. As previously discussed in Section 4.1, an application for retention permission for existing telecommunications equipment located on the rooftop, consisting of antennas and dishes mounted on support poles fixed to existing chimneys, and associated equipment including associated equipment cabinets located in basement was previously refused by the Board in May 2016. The refusal reason pertained to the telecommunications equipment's adverse impact on the Architectural Conservation Area and the character, setting and integrity of the Protected Structure. On the face of it, the previously considered proposal seems to have been quite similar to the current one, however, certain key aspects of the subject proposal differ from that previously refused. In this regard, the applicable chimney is located to the rear of the building and as a result can not be seen from Thomas Street or the surrounding streets. Further to this, the rear chimney is devoid of the ornate detailing featuring on the front chimney involved in the previous application. While I consider this refusal to be relevant, I note there is sufficient difference in the applications to satisfy some or all of the conservation issues arising with the first application in my view.

7.3. Residential Amenity

- 7.3.1. The proposed development would not be located in close proximity to any residential areas of a substantial size or to any schools or public buildings, and therefore would not have significant adverse impact on residential amenity.

7.4. Other Matters

- 7.4.1. *Development Contributions* – As discussed in Section 3.3 of this report, Transport Infrastructure Ireland in their commentary on the application asked that if the application was successful a condition requiring payment of a Section 49 Levy (associated with the Luas) be included, unless exempted. Pursuant to Circular PL03/2018, the proposed development falls under one of the categories of exemption

(pertaining to masts and antennae, dish and other apparatus/equipment for communication purposes) listed in the context of the Section 49 Supplementary Development Contribution Scheme (Luas Cross City), as well as the Dublin City Development Contribution Scheme 2020-2023.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. Having regard to the foregoing, it is recommended that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2022-2028, the Telecommunications Antennae and Support Structures – Guidelines for Planning Authorities (1996), Circular Letter PL07/12 and the nature, scale and location of the proposed works associated with the telecommunication infrastructure installation, it is considered that the proposed development, subject to compliance with the conditions below, would be in accordance with national guidance and the development plan and that the proposed development would not injure the historic fabric, architectural detail and character of the Protected Structure or the special architectural character, amenities and setting of the Thomas Street and Environs Architectural Conservation Area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Details of the proposed colour scheme for the telecommunications structure and ancillary structures shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of the visual amenities of the area.</p>
3.	<p>The height of the antennae shall be strictly in accordance with the dimensions indicated on the drawing and documentation submitted to the Planning Authority. Notwithstanding the provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the configuration of the proposed development shall not be altered without a prior grant of planning permission.</p> <p>Reason: To clarify the nature and extent of the permitted development to which this permission relates and to facilitate a full assessment of any future alterations.</p>
4.	<p>a) In the event of the proposed structure becoming obsolete and being decommissioned, the developers shall, at their own expense, remove the mast, antenna and ancillary structures and equipment.</p> <p>b) The site shall be reinstated on removal of the telecommunications structure and ancillary structures. Details relating to the removal and reinstatement shall be submitted to and agreed in writing with the planning authority at least one month before the removal of the telecommunications structure and ancillary structures and the work shall</p>

	<p>be completed within three months of the planning authority's approval in writing of these details.</p> <p>Reason: In the interest of orderly development.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Margaret Commane
Planning Inspector

28th June 2022