

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE – 24 JANUARY 2012**

**PLANNING APPLICATION – LAND AT NORTH STREET, OPPOSITE MURRAY STREET,  
MONTROSE**

**Grid Ref: 371536 : 758543**

**REPORT BY THE DIRECTOR OF INFRASTRUCTURE SERVICES**

**Abstract: This report deals with planning application No. 11/01027/FULL for the installation of 1 No. grey coloured BT DSLAM cabinet for BT Openreach on land at North Street, opposite Murray Street, Montrose. This application is recommended for conditional approval.**

**1 RECOMMENDATION**

- 1.1 It is recommended that the application be approved for the reasons and subject to the conditions given at Section 10 of this report.

**2 INTRODUCTION**

- 2.1 Planning permission is sought for the installation of a grey coloured BT DSLAM cabinet for BT Openreach on land at North Street, opposite Murray Street, Montrose. The application site is located on the north side of the pedestrian footway on North Street, close to its junction with Murray Street/ North Esk Road. The proposed site lies within the boundary of the Montrose Conservation Area.
- 2.2 The proposed cabinet would be 1.3m in height, 0.75m in width and 0.4m in depth, covering an area of 0.3sq.m and will be positioned adjacent to an existing BT cabinet of similar design and proportions. The existing cabinet is located against a stone boundary wall and railings within an area of planting/soft landscaping at the southern end of The Mall. The proposed cabinet installation will facilitate Super Fast Fibre Access (SFFA) providing super fast broadband to homes in the local area and is expected to be in place for around 20 years. A number of other cabinet locations are also being considered by the applicant.
- 2.3 The application has been advertised as required by legislation and as Angus Council has been notified as land owner, the proposal requires to be determined by the Development Standards Committee.

**3 RELEVANT PLANNING HISTORY**

- 3.1 There is no relevant planning history to this proposal.

**4 APPLICANT'S CASE**

- 4.1 A Supporting Statement has been provided which outlines the background behind the current proposals and site selection criteria. BT Openreach are currently rolling out a series of new cabinets within each of their telephone exchange areas that will

be used to provide high-speed broadband services to residents and businesses in the exchange area. This service is known as 'Super Fast Fibre Access' (SFFA), which will provide up to 40Mb per second download speeds and up to 10Mb upload speeds. A number of criteria are taken into consideration when identifying a suitable location for the proposed DSLAM cabinet which includes the feasibility of building and maintaining the cabinet, land ownership issues and the ability to connect to low voltage power. The proposed cabinet will be linked to the existing BT cabinet (PCP) therefore the two cabinets cannot be located more than 50 metres apart.

- 4.2 Additional factors taken into account when identifying suitable locations for the proposal include the impact on footpath widths, pedestrian movements and visibility splays; visual and residential amenity; listed buildings and the character and appearance of Conservation Areas. The applicant considers that in this instance a suitable location has been identified for the proposed cabinet which respects the character and appearance of the surrounding Conservation Area.

## **5 CONSULTATIONS**

- 5.1 The Head of Roads notes that the footway is approximately 2m wide at this location and has no objection to the proposed development.
- 5.2 Scottish Water has no objection to the current proposals.
- 5.3 No comments have been received from the Community Council.

## **6 LETTERS OF REPRESENTATION**

- 6.1 No letters of representation have been submitted.

## **7 PLANNING CONSIDERATIONS**

- 7.1 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise.
- 7.2 As the application for planning permission also relates to subjects within a conservation area, namely the outstanding Montrose Conservation Area, Section 64(1) of the Planning (Listed Buildings and Conservation Areas)(Scotland)Act 1997 requires the Council to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in determining this application.
- 7.3 In this case the development plan comprises:-
- Dundee and Angus Structure Plan (Approved 2002)
  - Angus Local Plan Review (Adopted 2009)

The Development Plan is current and up-to-date and in this respect merits considerable weight in the determination of the proposal.

- 7.4 The main policy basis for the assessment of this application is contained within the adopted Angus Local Plan Review (2009). The application site is situated within the built-up area of the town but is not specifically allocated for future development

proposals in the adopted development plan. The proposal should therefore be assessed under the following development plan policies.

### **Policy S1: Development Boundaries**

*(a) Within development boundaries proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the Local Plan.*

### **Policy S3: Design Quality**

*A high quality of design is encouraged in all development proposals. In considering proposals the following factors will be taken into account:*

- *site location and how the development fits with the local landscape character and pattern of development;*
- *proposed site layout and the scale, massing, height, proportions and density of the development including consideration of the relationship with the existing character of the surrounding area and neighbouring buildings;*
- *use of materials, textures and colours that are sensitive to the surrounding area; and*
- *the incorporation of key views into and out of the development.*

*Innovative and experimental designs will be encouraged in appropriate locations.*

### **Policy S6: Development Principles**

*Proposals for development should where appropriate have regard to the relevant principles set out in Schedule 1 which includes reference to amenity considerations; roads and parking; landscaping, open space and biodiversity; drainage and flood risk, and supporting information.*

### **Policy ER12: Development Affecting Conservation Areas**

*Development proposals within conservation areas or affecting the setting of such areas will be supported where they:*

- (a) respect the character and appearance of the area in terms of:*
  - *density, scale, proportion and massing;*
  - *layout, grouping and setting;*
  - *design, materials and finish;*
- (b) contribute positively to the setting of the area and maintain important views within, into or out of the area;*
- (c) retain particular features which contribute to the character and appearance of the area;*
  - *open spaces;*
  - *walls and other means of enclosure;*
  - *ground surfaces;*
  - *natural features such as trees and hedgerows;*
  - *accord with the Character Statement for the area.*

- 7.5 The proposed development forms part of a series of installations by BT Openreach in Montrose to improve the existing broadband service. All such proposals within the Conservation Area boundary require the benefit of planning permission under the provisions of Class 67 (2) of the Town and Country Planning (General Permitted Development)(Scotland) Order 1992 (as amended).
- 7.6 As stated above, Planning Authorities have a statutory duty under Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (as amended) to protect the character and appearance of any designated Conservation Area. Angus Local Plan Policy ER12 also requires proposals for new development to be in keeping with the character and appearance of the Conservation Area. In this instance, the proposals essentially relate to an additional item of street furniture within the boundary of the designated area. The principal issue in relation to the current proposal is therefore the impact which the additional item would have on the special architectural and visual qualities which gave rise to the area's designation.
- 7.7 National planning guidance for development in conservation areas advises that new street furniture should be limited to strictly functional items and kept to a minimum in order not to clutter the layout and appearance of these historic areas. Given that the purpose is purely functional, in design terms, the proposed cabinet is fairly utilitarian in appearance. There is an existing cabinet of similar size and appearance which will be linked to the proposed unit. The existing cabinet at this location is set back from the footway and partially concealed within an area of soft landscaping. Whilst it would have been preferable for the additional unit to be positioned directly adjacent to the existing, it is understood from the applicant that this would cause difficulties for installation and maintenance within an area of established planting. However, coloured in an alternative green finish to fit in with the landscaped surroundings, I do not consider an additional cabinet in this area to form a discordant feature in the street scene nor to have any unacceptable impact on the general character of the area. On this basis, the current proposal would have no unacceptable impact on the existing Conservation Area designation. As such, the proposal is considered to be in accordance with the policy and legislative requirements to preserve and enhance the character and appearance of the Conservation Area.
- 7.8 Subject to the finished colour, there are no issues with the design of the unit in terms of Policy S3. Other relevant issues such as amenity, visual impact and roads/parking/ access should be considered under Policy S6. In terms of the relevant criteria of Schedule 1, the proposed unit would be located at some distance from the nearest residential property and there would be no significant adverse affect on the general amenity of the area. This is an area of mixed land uses on the periphery of the town centre where there a number of other similar items of street furniture are already in place. As stated above, there are no issues in terms of visual impact and the Head of Roads has no objection to the application given that the footway is approximately 2 metres wide at this location. The proposal does not give rise to any significant issues in terms of the remaining criteria of Schedule 1.
- 7.9 The proposal constitutes fairly minor development and is considered acceptable in terms of design and visual impact. The proposed development will have no adverse impact on the character or appearance of this part of the Conservation Area, in accordance with both the stated policy and legislative requirements.

7.10 Policy S1 indicates proposals for new development on sites not allocated on Proposals Maps will generally be supported where they are in accordance with the relevant policies of the local plan. The proposal raises no policy or amenity issues and there have been no objections from any statutory consultee or third party. The proposal is considered in accordance with the relevant development plan policies and statutory legislation and there are no material considerations that would justify refusal.

7.11 The Council has an interest in this application as landowner of the site. However, as the application is considered to comply with development plan policy there is no requirement to notify the Scottish Ministers of the Council's intention to approve the application.

## **8 HUMAN RIGHTS IMPLICATIONS**

8.1 The recommendation in this report for grant of planning permission, subject to conditions, has potential implications for neighbours in terms of alleged interference with privacy, home or family life (Article 8) and peaceful enjoyment of their possessions (First Protocol, Article 1). For the reasons referred to elsewhere in this report justifying this recommendation in planning terms, it is considered that any actual or apprehended infringement of such Convention Rights, is justified. The conditions constitute a justified and proportional control of the use of the property in accordance with the general interest and have regard to the necessary balance of the applicant's freedom to enjoy his property against the public interest and the freedom of others to enjoy neighbouring property/home life/privacy without undue interference.

## **9 EQUALITIES IMPLICATIONS**

9.1 The issues contained in this report fall within an approved category that has been confirmed as exempt from an equalities perspective.

## **10 CONCLUSION**

10.1 It is recommended that the application be approved for the following reason and subject to the following conditions.

### **Reason for Approval:**

The application complies with the relevant provisions of the development plan and statutory legislation and will not have a significant adverse impact on the character or appearance of the Conservation Area. There are no material considerations that justify refusal of the application.

### **Conditions:**

1. That the development hereby permitted shall be begun before the expiration of three years from the date of this permission.

*Reason: In order to comply with the requirements of the Town and Country Planning (Scotland) Act 1997 (as amended).*

2. That the proposed cabinet be coloured in a green finish, the precise details of the colour to be agreed in writing with the planning authority, prior to installation. Thereafter, the cabinet shall be finished in accordance with the approved colour scheme and shall be maintained as such thereafter.

*Reason: In order that the proposed external finish is appropriate for the cabinet in the interests of visual amenity and in order to minimise impact on the Conservation Area.*

#### **NOTE**

No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973, (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

P&T/GWC/KW/IAL  
9 January 2012

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