

ANGUS COUNCIL

DEVELOPMENT STANDARDS COMMITTEE – 22 NOVEMBER 2016

PLANNING APPLICATION – THRUMS YARD, CORTACHY ROAD, KIRRIEMUIR, DD8 4PD

GRID REF: 338080 : 755005

REPORT BY HEAD OF PLANNING AND PLACE

Abstract:

This report deals with planning application No 16/00776/FULL for the installation of a 22m high lattice tower (galvanised); 3no antennas and 3m head frame; and 3no remote radio units (RRUs) (298x127x351mm, RAL7035 Grey); 2no 300mm dish; 2no cabinets (2no 1300x700x1450mm; 1no. 600x600x1415mm; all RAL6009 green); 2.1m high chain link fence with 3-strand barbed wire; and ancillary development at Thrums Yard, Cortachy Road, Kirriemuir, DD8 4PD. This application is recommended for approval subject to condition.

1. RECOMMENDATION

It is recommended that the application be approved for the reason given in Section 10 of this report.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/ CORPORATE PLAN

This report contributes to the following local outcome(s) contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- Our communities are developed in a sustainable manner
- Our natural and built environment is protected and enjoyed

3. INTRODUCTION

- 3.1 The applicant seeks full planning permission for the installation of a 22m high lattice telecoms tower (25m high with installed antennas) and associated infrastructure.
- 3.2 The application site measure approximately 75sqm and is located to the west of the B956 public road and within the grounds of an existing storage and distribution yard. The site currently accommodates several storage containers, plant and machinery and various portable and permanent buildings. The site is bound by established trees and a boundary fence to the northeast, an existing workshop building to the southeast, storage containers and the wider business premises to the southwest and a post and wire fence and agricultural land to the northwest. A location plan is provided at Appendix 1 below.
- 3.3 The application seeks to erect a 22m high galvanised lattice telecoms tower with 3 antennas which would project 3m above the top of the mast, resulting in the total height of the structure being approximately 25m. Below this, 3 radio transmitters (RRU's) with dimensions of 298x127x351mm, finished in grey (RAL7035), and 2 transmission dishes with a diameter of 300mm would also be installed on the tower frame. The tower and 3 cabinets, 2 with dimensions of 1300x700x1450mm and 1 with dimensions of 600x600x1415mm, all 3 of which would be finished in green (RAL6009) would be erected on a 5m x 5m concrete base. The concrete base would be surrounded by a 2.1m high chain link fence topped with 3-strand barbed wire.
- 3.4 The application has not been subject of variation.
- 3.5 The application was advertised in the Dundee Courier as required by legislation.

- 3.6 This application requires to be determined by the Development Standards Committee due to the recommendation of approval, where the proposal has attracted more than 5 objections.

4. RELEVANT PLANNING HISTORY

- 4.1 Planning application reference 16/00195/FULL for erection of a 36m X 20m portal frame building forming workshop with integrated offices & staff facilities was approved subject to conditions on the wider site on 13 May 2016. It has yet to be implemented.
- 4.2 Planning application reference 10/01111/FULL for retrospective consent for change of use from haulage & bus depot to Class 6 storage and distribution with associated works and erection of boundary fence was approved subject to conditions on the wider site on 10 December 2010.

5. APPLICANT'S CASE

- 5.1 A generalised document named General Background Information for Telecommunications Development was submitted in support of the application and provides a brief background to telecoms developments.
- 5.2 An ICNIRP certificate was submitted in support of the application and confirms the cumulative emissions from the proposed installation and all radio base stations present at, or near the proposed location are below a safe level.
- 5.3 A further overreaching 'Supplementary Information' document was provided in support of the application and gives a brief overview and background to the proposal.
- 5.4 A Panoramic Survey Report was submitted alongside the application.
- 5.5 An email from the agent, dated 9th of November, was received in response to various points raised within the public comments submitted in relation to the application.
- 5.6 The supporting information is available to view on the Council's Public Access system and is summarised at Appendix 2 below.

6. CONSULTATIONS

- 6.1 **Angus Council Roads** – offers no objection to the proposal.
- 6.2 **Scottish Water** – there was no response from this consultee at the time of report preparation.
- 6.3 **Community Council** – there was no response from this consultee at the time of report preparation.

7. REPRESENTATIONS

- 7.1 Sixteen letters of representation have been received objecting to the proposal at the stage of writing this report. The letters of representation will be circulated to Members of the Development Standards Committee and a copy will be available to view in the local library or on the council's Public Access website.

- 7.2 The main points of objection are as follows:

- **Visual and residential amenity impacts**
- **Removal of and impacts upon existing trees and biodiversity**
- **Impacts on landscape character and views**
- **Location suitability and potential of alternative sites**
- **Accuracy of drawings/scale of proposed mast**

These matters will be addressed under Planning Considerations below.

- **Health impacts and proximity to residential properties, schools and existing masts**
- paragraph 292 of Scottish Planning Policy states that '*The planning system should not be used to secure objectives that are more properly achieved under other legislation.*'

Emissions of radiofrequency radiation are controlled and regulated under other legislation and it is therefore not necessary for planning authorities to treat radiofrequency radiation as a material consideration. An ICNIRP Certificate has been submitted alongside the current application which confirms emissions are within specified standards, when taking into account the cumulative effect of the emissions from the proposed installation and all radio base stations present at, or near, the proposed location.

- **Noise and smell emissions from the existing use authorised on the site** - issues regarding emissions from the existing use of the site are not material to the determination of the current proposal.
- **Lack of publication of the application** - the application was subject to statutory publicity and consultation as prescribed by the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.
- **Lack of telecoms masts on Angus Council sites** - the substantive issue in relation to this proposal is whether the proposed telecoms mast and associated infrastructure is acceptable on the proposed site and that matter is discussed below. Issues regarding the siting of other masts are not a material planning consideration.
- **Impacts on house prices** - issues regarding the impact upon surrounding house prices are not a material planning consideration.

8. PLANNING CONSIDERATIONS

- 8.1 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.
- 8.2 In this case the development plan comprises:-
- TAYplan (Approved 2012)
 - Angus Local Development Plan (ALDP) (Adopted 2016)
- 8.3 The development plan policies relevant to consideration of this application are provided in Appendix 3 and have been taken into account in the preparation of this report.
- 8.4 Policy DS1 of the ALDP identifies development boundaries for towns. These seek to protect the landscape setting of towns and villages and prevent the uncontrolled spread of development. The development boundaries provide a definition between built up areas and the open countryside. In this case the site is located within an existing complex of buildings that sits outwith but adjacent to the Kirriemuir Development Boundary. The proposal would provide a structure to improve telecoms services in the Kirriemuir area and would be wholly within the confines of an existing storage and distribution yard. In this respect there is no conflict with the objectives of this policy.
- 8.5 Policy TC13 deals with telecommunications development. The proposal would be of a design and scale common for such developments and would be necessary to support the delivery of the required coverage. The lattice tower would be located approximately 40m from the boundary with the closest residential property and in the region of 55m from the closest dwellinghouse. Angus Council's Advice Note 26 states that industrial areas away from residential boundaries are preferred locations for telecommunications installation and locating a mast within a group of existing trees or against a backdrop of trees can assist in making a site more acceptable. The Advice Note indicates that residential areas are best avoided but where this is not possible careful siting and design will be paramount. In this case the site is located within an existing area used for employment related purposes and its basic appearance would not look out of character with that area. It benefits from some screening by virtue of existing structures and woodland which mitigates its visual impact. Whilst the mast would be visible from some public areas and private gardens, the associated visual impact would not be untypical of that associated with other masts found in urban areas or on the fringe of settlements. The applicant has demonstrated that various alternative sites have been explored within the current coverage deficit area, including the existing mast at Kirriemuir Hill and those on existing infrastructure or buildings. These have reasonably been discounted on the basis of service viability and significant impacts upon residential frontages. The site would

lie within the wider non-designated designed landscape of Kinnordy Estate and some distance to the southwest of Caddam Wood, as depicted in Angus Settlements Landscape Capacity Study – Kirriemuir. The provision of a lattice tower mast of the height proposed and within the curtilage of an existing commercial premises, would not have a significant adverse impact on the policies of Kinnordy Estate or on the setting or recreational value of Caddam Wood. The Angus Landscape Capacity Study has been referenced in objections to this application. However, it must be noted that the landscape capacity study considers the capacity for urban expansion around each settlement; it is not intended as a tool for the assessment of small scale or infill development. Accordingly, its relevance in the determination of this planning application is limited.

- 8.6 Policy PV7 primarily seeks to protect and retain woodland, trees and hedges to avoid fragmentation of existing provision. A number of trees outwith the application site but illustrated on the application drawings were removed earlier this year. However those trees were not protected and their removal did not require consent from the Planning Authority. The proposal does not require the removal of any trees and does not conflict with this policy.
- 8.7 Policy DS4 deals with amenity. The visual impacts of the proposal have been discussed above in the context of Policy TC13. Due to the nature and design of the development the proposal would not result in unacceptable impacts upon residential amenity in terms of noise, smell, light pollution, overlooking or overshadowing. The proposal would be served by an existing vehicular access on Cortachy Road. The Roads Service has offered no objection to the proposal. The proposal does not give rise to significant issues in terms of the remaining considerations of Policy DS4.
- 8.8 The letters submitted in objection to the proposal by third parties are noted and discussed above. As highlighted, a number of the objections make reference to concerns regarding the adverse health impacts that may be associated with mobile phone masts. However, as indicated, Scottish Government has confirmed that *'Emissions of radiofrequency radiation are controlled and regulated under other legislation and it is therefore not necessary for planning authorities to treat radiofrequency radiation as a material consideration.'* An ICNIRP Certificate has been submitted alongside the current application which confirms emissions are within specified standards. It is therefore unnecessary for the Planning Authority to consider this matter further although Committee may wish to note that there are examples of telecommunications apparatus/masts in Angus burghs that are a lesser distance from neighbouring residential property.
- 8.9 In conclusion, the proposal is considered to comply with the relevant policies of the development plan and with Angus Council's Advice Note that deals with telecommunications development. There are no material considerations which would justify refusal of the application.

9. OTHER MATTERS

HUMAN RIGHTS IMPLICATIONS

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.

EQUALITIES IMPLICATIONS

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

10. CONCLUSION

It is recommended that the application be approved for the following reason:

Reason(s) for Approval:

The proposal complies with the relevant provisions of the development plan and would not have a significant adverse impact on the amenity or character of the surrounding area. There are no material considerations which would justify refusal of the application.

Conditions:

1. That within 3 months from cessation of the use of the equipment hereby approved, all structures (including the mast and equipment cabinets) shall be removed.

Reason: In order that the equipment is removed when it is no longer required in the interests of visual amenity.

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.

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Appendix 1 : Location Plan

Appendix 2 : Summarised Applicant's Case Documents

Appendix 3 : Relevant Development Plan Policies

Appendix 2 : Summarised Applicant's Case Documents

General Background Information for Telecommunications Development – is a generalised document submitted in support of the application which includes a brief summary to the digital networks and the history of the function of digital technology, including details of network capacity and technical requirements. The document also provides details of site selection procedures which apply to each new installation and a summary of relevant planning policy and guidance on telecommunications, including matters of need and siting and design. Consultation procedures and relevant legal cases are also listed, as well as indications on where to find further information.

ICNIRP Certificate – this declaration takes into account the cumulative effect of the emissions from the proposed installation and all radio base stations present at, or near, the proposed location. The certificate concludes that the site is designed to be in full compliance with the requirements of the radio frequency (RF) guidelines of the International Commission on Non-Ionizing Radiation (ICNIRP) for public exposure as expressed in the EU Council recommendation of July 1999. The radio emission compliance calculation is based upon the maximum possible cumulative values.

Supplementary Information Document – includes basic site details, further details of site selection, consultations carried out and a summary of the proposed development. Details of 6 other potential sites are listed and discussed, and subsequently discounted. The document concludes that there is an established operational need for the development in the location proposed and there is no reasonable prospect of sharing existing facilities due to operational, technical or environmental constraints. There are no more satisfactory alternative sites available and the proposed development does not conflict with other relevant policies contained in the Local Plan.

Panoramic Survey Report – this report includes various photographs of views from the within and panoramic views looking outwith the proposed site at ground level and at heights of 15m, 18m, 21m, 24m.

Email from Agent, (9th of November) - was received in response to various points raised within the public comments submitted in objection to the application. The response notes the existing mast on Kirriemuir Hill cannot be used as both the applicant and their partner have existing recently upgraded apparatus installed at this location but would not be suitable to provide improved coverage to customers in the western Kirriemuir area. With regards to the proposal impacts upon property value the emails notes there is no documented evidence to suggest that a base station site has any impact on a property value, either favourably or unfavourably. Furthermore an ICNIRP Certificate has been submitted in relation to emissions considerations and the agent has states they would be happy to supply links to independent and scientifically credible resources to any objector that wish to understand more on this matter. Lastly the email notes in terms of visual impacts the subject site has been identified following a detailed site selection process and the nominated property is light industrial in use and benefits from the visual context of significantly sized trees around its peripheries. Although the target coverage area is densely built up and predominantly residential in nature, the operator believes they have identified a peripheral site that is not directly overlooked by residential frontages. Given the antennas heights that are required to achieve clear transmission above surrounding clutter, i.e. >20m, the operator is limited in terms of what design options are available to them and a lattice style mast is the only option capable of accommodating the antennas at this height. The operator has chosen the slimmest available within their design portfolio and the mast could also be painted to further mitigate impact its impacts. The agent suggests that RAL 6009 Fir Green may be best suited.

Appendix 3 : Relevant Development Plan Policies

Angus Local Development Plan 2016

Policy DS1 : Development Boundaries and Priorities

All proposals will be expected to support delivery of the Development Strategy.

The focus of development will be sites allocated or otherwise identified for development within the Angus Local Development Plan, which will be safeguarded for the use(s) set out. Proposals for alternative uses will only be acceptable if they do not undermine the provision of a range of sites to meet the development needs of the plan area.

Proposals on sites not allocated or otherwise identified for development, but within development boundaries will be supported where they are of an appropriate scale and nature and are in accordance with relevant policies of the ALDP.

Proposals for sites outwith but contiguous* with a development boundary will only be acceptable where it is in the public interest and social, economic, environmental or operational considerations confirm there is a need for the proposed development that cannot be met within a development boundary.

Outwith development boundaries proposals will be supported where they are of a scale and nature appropriate to their location and where they are in accordance with relevant policies of the ALDP.

In all locations, proposals that re-use or make better use of vacant, derelict or under-used brownfield land or buildings will be supported where they are in accordance with relevant policies of the ALDP.

Development of greenfield sites (with the exception of sites allocated, identified or considered appropriate for development by policies in the ALDP) will only be supported where there are no suitable and available brownfield sites capable of accommodating the proposed development.

Development proposals should not result in adverse impacts, either alone or in combination with other proposals or projects, on the integrity of any European designated site, in accordance with Policy PV4 Sites Designated for Natural Heritage and Biodiversity Value.

*Sharing an edge or boundary, neighbouring or adjacent

Policy DS4 : Amenity

All proposed development must have full regard to opportunities for maintaining and improving environmental quality. Development will not be permitted where there is an unacceptable adverse impact on the surrounding area or the environment or amenity of existing or future occupiers of adjoining or nearby properties.

Angus Council will consider the impacts of development on:

- Air quality;
- Noise and vibration levels and times when such disturbances are likely to occur;
- Levels of light pollution;
- Levels of odours, fumes and dust;
- Suitable provision for refuse collection / storage and recycling;
- The effect and timing of traffic movement to, from and within the site, car parking and impacts on highway safety; and
- Residential amenity in relation to overlooking and loss of privacy, outlook, sunlight, daylight and overshadowing.

Angus Council may support development which is considered to have an impact on such considerations, if the use of conditions or planning obligations will ensure that appropriate mitigation and / or compensatory measures are secured.

Applicants may be required to submit detailed assessments in relation to any of the above criteria to the Council for consideration.

Where a site is known or suspected to be contaminated, applicants will be required to undertake investigation and, where appropriate, remediation measures relevant to the current or proposed use

to prevent unacceptable risks to human health.

Policy TC13 : Digital Connectivity and Telecommunications Infrastructure

Proposals for telecommunications development will be permitted provided that the following criteria are met:

- The siting and appearance of the proposed apparatus and associated structures should seek to minimise impact on the visual amenity, character or appearance of the surrounding area;
- If on a building, apparatus and associated structures should be sited and designed in order to seek to minimise impact to the external appearance of the host building;
- If proposing a new mast, it should be demonstrated that the applicant has explored the possibility of erecting apparatus on existing buildings, masts or other structures. Such evidence should accompany any application made to the planning authority.
- If the proposed location is within a sensitive area or on a sensitive site or building, such as areas of ecological interest, areas of landscape importance, archaeological sites, conservation areas or listed buildings, it should be demonstrated that the development would not have any unacceptable effects.

When considering applications for telecommunications development, the planning authority will also have regard to the operational requirements of telecommunications networks and the technical limitations of the technology.

Policy PV7 : Woodland, Trees and Hedges

Ancient semi-natural woodland is an irreplaceable resource and should be protected from removal and potential adverse impacts of development. The council will identify and seek to enhance woodlands of high nature conservation value. Individual trees, especially veteran trees or small groups of trees which contribute to landscape and townscape settings may be protected through the application of Tree Preservation Orders (TPO).

Woodland, trees and hedges that contribute to the nature conservation, heritage, amenity, townscape or landscape value of Angus will be protected and enhanced. Development and planting proposals should:

- protect and retain woodland, trees and hedges to avoid fragmentation of existing provision;
- be considered within the context of the Angus Woodland and Forestry Framework where woodland planting and management is planned;
- ensure new planting enhances biodiversity and landscape value through integration with and contribution to improving connectivity with existing and proposed green infrastructure and use appropriate species;
- ensure new woodland is established in advance of major developments;
- undertake a Tree Survey where appropriate; and
- identify and agree appropriate mitigation, implementation of an approved woodland management plan and re-instatement or alternative planting.

Angus Council will follow the Scottish Government Control of Woodland Removal Policy when considering proposals for the felling of woodland.