

**ANGUS COUNCIL**

**DEVELOPMENT STANDARDS COMMITTEE – 20 JUNE 2017**

**PLANNING APPEAL DECISION  
THRUMS YARD CORTACHY ROAD KIRRIEMUIR DD8 4PD**

**REPORT BY HEAD OF HOUSING, REGULATORY AND PROTECTIVE SERVICES**

**Abstract:**

This report presents the findings of the Reporter appointed by the Scottish Ministers to determine the appeal against the refusal of Angus Council to grant a planning permission for the Installation of a 22m high lattice tower; 3 antennas and a 3m head frame; 3 remote radio units; 2 300mm dishes; 2 cabinets; a 2.1m high chain link fence with 3-strand barbed wire; and ancillary development at Thrums Yard, Cortachy Road, Kirriemuir. The Reporter has allowed the appeal and granted planning permission subject to the conditions listed.

**1. RECOMMENDATION**

It is recommended that the Committee notes the outcome of the above appeal.

**2. INTRODUCTION**

- 2.1 On 23 September 2016 Angus Council refused to grant planning permission for the installation of 22m high lattice tower; 3 antennas and a 3m head frame; 3 remote radio units; 2 300mm dishes; 2 cabinets; a 2.1m high chain link fence with 3-strand barbed wire; and ancillary development at Thrums Yard, Cortachy Road, Kirriemuir ([Report 421/16](#) refers).
- 2.2 The applicant, Telefonica UK Limited appealed against the refusal and the Reporter's conclusions and decision are presented below.

**3. REPORTER'S DECISION**

**Reasoning**

- 3.1 I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issue in this appeal is whether the proposed lattice mast and ancillary development would have a detrimental impact on the visual amenity, character or appearance of the surrounding area.

**The Development Plan**

- 3.2 No policies in the strategic development plan, TAYplan, have been brought to my attention. The up-to-date and adopted Angus Local Development Plan 2016 confirms the importance of digital infrastructure to remoter rural areas. Specifically, policy TC13 Digital Connectivity and Telecommunications Infrastructure sets out 4 tests which must be satisfied to permit the carrying out of telecommunications development of the type proposed. The council does not dispute the need for a new mast to improve network coverage. Additionally, against the tests in policy TC13, no evidence has been provided to me to indicate that the proposal is located on a sensitive site or in a sensitive area; nor is it on a building, rendering the second and fourth tests in the policy inapplicable. The appellant has submitted details of alternative locations that have been explored, satisfying the third test.
- 3.3 Accordingly, during my site inspection I carefully, in applying the first test in the policy, assessed the siting and appearance of the proposal which is a matter of concern to those who object to the proposal, including residential properties in Rowan Avenue, the curtilage of

an adjoining dwellinghouse south of the site, the nearby public road, the adjoining woodland and from the wider countryside.

- 3.4 The location of the proposed mast is outwith, but adjacent to, the Kirriemuir Development Boundary, confirmed by policy DS1 of the development plan. However, the wider site benefits from an extent planning permission for class 6 (storage and distribution) uses. Notably, adjacent to the proposed location of the mast's compound, and visible from houses in Rowan Avenue, a green corrugated-iron building, some 8 metres in height, is located on an east-west axis adjacent to the site's northern boundary. I find the character and appearance of the appeal site, and the yard area, to be typical of a storage and distribution use. As such, the use and associated activity of the yard area contributes to the mixed land use characteristics in the immediate vicinity.
- 3.5 Some 40 metres south-east of the mast, separated by Cortachy Road, are the rear boundaries of houses on Rowan Avenue, Kirriemuir, an area characterised by attractively laid-out and relatively recent residential development. Single storey houses, and 3 two storey houses opposite the appeal site, lie around some 55 metres from the location of the mast. From the upper floors of the two storey houses, and to a lesser extent from the ground floor and gardens, there are views westwards, over the yard.
- 3.6 Given the height of the proposed mast it will be an unconcealed and visible feature in views from the gardens and ground floors and, more prominently, the upper floors of adjacent houses on Rowan Avenue. Existing vegetation in the rear curtilage of nearby houses, combined with the yard's timber screen fence and corrugated-iron building, would assist in effectively screening from view much of the mast's compound and ancillary plant, especially from ground floor windows and the well tended gardens of houses in Rowan Avenue. I find that the mast's location, and its close proximity to the woodland and 8 metre high building, means that it is sited in the least conspicuous and sensitive part of the yard. In turn this minimises its wider impact when viewed from the east, but gives rise to filtered views between the building and woodland, particularly from habitable rooms on the upper floors of the three detached houses.
- 3.7 Immediately south-west of the storage and distribution yard is a single dwellinghouse. From this location the mast would be seen from the curtilage of the property but against a backdrop of mature woodland, in the context of what are typical visual characteristics of this type of use. Views from the principle south-east facing elevation of this house would be away from the structure.
- 3.8 Whilst the tallest part of the mast would exceed, to a degree, the height of much of the broad-leaved woodland on the site's northern boundary, this woodland effectively screens the proposal from the north and acts as a backcloth to the site from the south, thus helping to minimise any visual impact from these directions. To the west of the site is arable farmland and views of the mast from this direction are more distant, it being seen adjacent to the woodland and against the backdrop of the wider urban form of Kirriemuir. I am satisfied that there would be minimal impact on the policies of Kinnordy Estate and Caddam Wood.
- 3.9 I find that, in accordance with policy TC13 Digital Connectivity and Telecommunications Infrastructure, the siting and appearance of the mast, the need for which the council does not dispute, is located in a manner that minimises its impact on visual amenity, and on both the character and appearance of the surrounding area. I am also satisfied that the appeal proposal would not adversely impact on the amenity of adjacent householders by virtue of noise, smell, light pollution, overlooking and overshadowing. Thus the appeal proposal does not conflict with development plan policy DS4 Amenity. Accordingly, I find that the appeal proposal would be in accordance with the development plan.

#### Other material considerations

- 3.10 The council has brought to my attention Scottish Planning Policy (SPP), highlighting paragraph 293 which supports the development of digital connectivity. Taking into account the non-disputed need for the proposal, the existing use of the appeal site, the screening afforded by the woodland, the proximity of the corrugated-iron building and the expansive farmland to the west I am satisfied that the proposed location is such that it minimises the environmental impact of the mast, in accordance with SPP.

- 3.11 The council's Advice Note 26 'Telecommunications Development' confirms that a location, in this case on land analogous to an industrial area and away from the boundary of residential properties, is preferential. The location of the appeal proposal, although visible from within houses some 55 metres distant, would be in a mixed urban and rural location and not a predominantly residential area. Moreover, the Advice Note advises that locating a mast against a backdrop of trees would assist in making a site more acceptable. I find that a planning condition requiring the lattice structure to be finished in a dark matt green colour would have benefits recognised in the Advice Note.
- 3.12 Matters raised by those who have made a representation on the proposal, expressed on a planning matter, are material considerations. I have set out above my findings on the visual impact of the proposal when seen from residential properties. Several representees are concerned about the health impacts of the apparatus on residents and on children attending a local primary school. However, the appeal proposal is accompanied by an ICNRP certificate which confirms that the cumulative emissions from the telecommunications apparatus are within internationally recognised and specified standards. As confirmed in SPP, other legislation controls and regulates telecommunications apparatus and it is not necessary for planning authorities to treat radiofrequency radiation as a material planning consideration.

### Conclusion

- 3.13 In summary, no evidence has been presented to me that questions the need for the proposal. It will not affect a site considered sensitive for environmental reasons. Consequently, taking into account its siting in an existing commercial area, its location on the periphery of that site, set against a back drop of mature woodland and an 8-metre-high commercial building I disagree with the council and find that the mast has been sited to minimise its impact on visual amenity and the character or appearance of the surrounding area.
- 3.14. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would justify refusing to grant planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

### List of 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.*
2. Further to the details shown on drawing 301(A) (Proposed Site Elevation), the mast shall be finished in a green-coloured matt finish, the details of which shall be agreed with the planning authority prior to the commencement of development.  
*Reason: In order to minimise the appearance of the lattice structure, in the interests of visual amenity.*

### Schedule of Approved Drawings

Drawing 100 (A) Site location maps  
Drawing 100 (B) Site location maps  
Drawing 200 (A) Existing site plan  
Drawing 201 (A) Proposed site plan  
Drawing 300 (A) Existing site elevation  
Drawing 301 (A) Proposed site elevation  
Drawing 201 (A) Proposed site plan (with note)  
PPA-120-2044

### Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).
4. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013).

## **5. FINANCIAL IMPLICATIONS**

There are no financial implications.

## **6. OTHER IMPLICATIONS**

### **Risk**

There are no risks associated with the recommendations contained in this report.

### **Human Rights Implications**

There are no Human Rights implications.

### **Equalities Implications**

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

**STEWART BALL**  
**HEAD OF HOUSING, REGULATORY AND PROTECTIVE SERVICES**

**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 a material extent in preparing the above report.

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**DATE: 6 JUNE 2017**