

## **EAST AYRSHIRE COUNCIL**

**CENTRAL LOCAL PLANNING COMMITTEE: 13 APRIL 2005**

**05/0176/FL: PROPOSED INSTALLATION OF 3 NO. 2G ANTENNAE,  
3 NO. 3G ANTENNAE AND 2 NO. 300mm TRANSMISSION DISHES  
ONTO EXISTING T-MOBILE TOWER, INSTALLATION OF EQUIPMENT  
CABIN AND METER CABINET, ALSO INVOLVE 7.5m EXTENSION OF  
TOWER  
AT GLACIER VANDERVELL LTD, HURLFORD ROAD, RICCARTON,  
KILMARNOCK  
BY T-MOBILE UK LTD**

### **EXECUTIVE SUMMARY STREET**

#### **1. DEVELOPMENT DESCRIPTION**

1.1 Full planning consent is sought for the installation of 3 no. 2G antennae, 3 no. 3G antennae and 2 no. 300mm transmission dishes onto the existing telecommunications tower. The proposal also involves increasing the height of the tower by 7.5 metres and the installation of an equipment meter cabinet. All equipment is proposed to be light grey in colour.

#### **2. RECOMMENDATION**

**2.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.**

#### **3. CONCLUSIONS**

3.1 As indicated in Section 5 of this report, the application is considered to be contrary to the development plan. Therefore given the terms of Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

3.2 As indicated in Section 6 there are material considerations relevant to this application. The consultation responses received have no adverse comments to make in relation to the application. The concerns of the objectors with regard to health matters and Radio Frequency Emissions are not material planning considerations and are safeguarded by other legislation and bodies as advised by NPPG 19. It further advises that it is the responsibility of the Scottish Executive and UK Government to decide what measures are required to protect public health.

3.3 However, with regard to the increase in height, it is considered that this would lead to an unacceptable visual impact, which is considered to be contrary to Policy CS2 of EALP. It also fails to accord with Government guidance in the form of NPPG 19 and PAN 62, which advocate that the installation of telecommunications apparatus must be undertaken in a manner that keeps environmental impact to a minimum.

### **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards the application will not require to be referred to the Development Services Committee as it would not be a significant departure from Council policies.

**Alan Neish**  
**Head of Planning, Development and Building Standards**

**Note: This document combines key sections of the associated report for quick reference and should not in itself be considered as having been the basis for recommendation preparation or decision making by the Planning Authority.**

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### Report by Head of Planning, Development and Building Standards

#### 1. PURPOSE OF REPORT

1.1 The purpose of this report is to present for determination a full planning application which is to be considered by the Local Planning Committee as it is subject to objections and recommended for refusal.

#### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site relates to an existing telecommunications site at Hurlford Road, Riccarton. The existing telecommunications tower is 15m high, and is located in an area with mixed uses. The mast was erected under permitted development rights, prior to the amendments to legislation in 2001. To the north, west and east there are industrial units and commercial properties including a car showroom and factory unit. To the south there are residential properties along Hurlford Road. Hurlford Road is an approach road into Kilmarnock from the A71, A76 and A77.

2.2 **Proposed Development:** Full planning consent is sought for the installation of 3 no. 2G antennae, 3 no. 3G antennae and 2 no. 300mm transmission dishes onto the existing telecommunications tower. The proposal also involves increasing the height of the tower by 7.5 metres and the installation of an equipment meter cabinet. All equipment is proposed to be light grey in colour.

#### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Environmental Health Division have no adverse comments to make regarding the proposed development, provided that the installation is in accordance with current National Radiological Protection Board Guidelines.

**Noted. This application has been accompanied by an ICNIRP certificate, in accordance with NPPG 19.**

3.2 East Ayrshire Council's Roads and Transportation Division and Transco have no adverse comments to make regarding the proposed development.

**Noted.**

3.3 There is no Community Council in existence for this area.

**Noted.**

#### **4. REPRESENTATIONS**

4.1 There are 4 objectors to the proposed development and their grounds of objection are as follows:-

4.2 There is concern about increased power levels and the risk to human health, especially to Glacier Vandervell employees, local residents and local school children.

***NPPG 19 on Radio Telecommunication issued by the Scottish Executive, states that emissions of radio frequency (RF) radiation are controlled and regulated under the appropriate legislation by the DTI (Department of Trade and Industry), Radiocommunications Agency and the Health and Safety Executive. With these mechanisms in place the Scottish Executive concludes that it is not necessary for Planning Authorities to treat RF emissions as material considerations when determining a planning application. It is the responsibility of the Scottish Executive and UK Government to decide what measures are required to protect public health.***

***It is however requested that any applicant demonstrates that the known health effects have been properly addressed. Applications involving antennas must be accompanied by a declaration that the equipment is designed to be in full compliance with the appropriate International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines for public exposure to radio frequency radiation.***

***This application was accompanied by the required declaration of conformity with ICNIRP public exposure guidelines.***

***NPPG 19 further advises that provided this guidance is followed it is unlikely that planning authorities could find justification for applying extended or alternative requirements either in***

**development plans or development control. This approach and policy will also be applied in the determination of appeals.**

4.3 In recent weeks, the media has reported on Government concerns about the construction of these towers near schools. Are local businesses and private schools not entitled to the same protection?

**See response to 4.2 above.**

4.4 There seems to be a complete disregard for the health and safety of residents' children, there is a very real health risk here.

**See response to 4.2 above.**

4.5 An independent adjudicator should be appointed to examine and ascertain the risk to residents and children, and T-Mobile's own tests should also be made available, over a long period of time.

**See response to 4.2 above.**

4.6 The existing mast is already an eyesore, and increasing the height from 15 to 22.5 metres is making it 50% taller.

***This Division echoes the concerns of the objector relating to the substantial increase in height of the existing mast since this will extend the tower significantly above the trees, increasing its prominence and visibility. In particular, the increase will make it visible from the west, where it is currently well screened, and more prominent from the east, on the approach road to Kilmarnock.***

4.7 There appears to be no reason why this apparatus should be installed within such close proximity to people and schools

**See response to 4.2 above.**

4.8 Interference to electrical appliances is obvious within the home and is a violation of privacy and human rights.

***It is the responsibility of the Office of Telecommunications (OFTEL) to monitor and enforce the licences which are granted to telecommunications operators. In certain instances telecommunications operators may require a license issued under the Wireless Telegraphy Act (1949 and 1998), for which the Radiocommunications Agency is responsible. This may involve a site clearance procedure which addresses issues such as radio interference. This site clearance procedure is not a pre-requisite of planning permission, and it is not the role of the planning authority to consider these matters as they are dealt with by other bodies.***

4.9 Local residents were not warned and had no say relating to the erection of the mast.

***The existing mast was erected under permitted development rights, prior to the amendments to legislation in 2001. There was therefore no obligation to notify neighbours of the original mast. Members are advised to assess only the present proposals before them.***

***Furthermore, there is no statutory requirement for the applicant to carry out extensive community consultation prior to the submission of a planning application. The applicant has carried out the statutory neighbour notification procedure and an advertisement has been placed in the local paper. It is considered that appropriate notification has taken place.***

## **5. ASSESSMENT AGAINST DEVELOPMENT PLAN**

5.1 Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 require that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. For the purposes of this application the development plan comprises the Adopted East Ayrshire Local Plan (EALP) and the Approved Ayrshire Joint Structure Plan.

### Approved Ayrshire Joint Structure Plan

5.2 There are no policies within the Structure Plan relevant to the determination of this planning application.

### Adopted East Ayrshire Local Plan

5.3 Policy CS2 of the Adopted EALP sets out criteria against which applications for telecommunications developments should be assessed, including their visual impact, possibility of shared operational facilities and available alternative sites.

***From both east and west aspects the existing mast is to a great extent concealed from view by large deciduous trees even in winter. However, the proposed increase in the height of the mast would result in it being much higher than the aforementioned trees and, combined with the additional equipment to be installed on the mast, this would have a much greater impact on the visual amenity of Hurlford Road and associated residential areas than the existing mast. It is therefore considered that in its present form the proposal would not accord with Policy CS 2 in terms of visual impact.***

5.4 Policy CS 3 sets out specific distances that telecommunications masts should be located from certain developments and requests developers to indicate areas of greatest intensity of emissions.

***It should be noted that the content of Policy CS3 has been superseded by the provisions of NPPG 19:RadioTelecommunications and more weight should be attached to the provisions of the NPPG 19 than to the above approved policy. Under paragraph 53 of NPPG 19, which took effect after Policy CS3 had been agreed by the Council, the planning system should not be used to secure objectives that are more properly achieved under other legislation, including those referring specifically to the potential effects of radiation emissions on public health.***

## **6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS**

6.1 The principal material considerations relevant to the determination of this application are the consultation responses that are addressed in Section 3 of this report and letters of objection addressed in Section 4 of this report, NPPG 19 Radio Telecommunications and planning history of the site.

### Consultation Responses and Representations Received

6.2 It is considered that objectors' concerns in relation to health and safety matters are not a material consideration in the determination of this application. However, the objectors have also expressed concern regarding the visual impact of the proposed equipment; this Division echoes these concerns.

### National Planning Policy Guidelines 19: Radio Telecommunications

6.3 NPPG 19 outlines Scottish Executive Policy on telecommunications development. With regard to new ground based masts the guideline states that the siting and design of ground based masts must have regard to the landscape or townscape and make use of existing features to minimise any adverse visual affects. More environmentally sensitive solutions can be achieved though greater use of smaller and less visually intrusive equipment with less conspicuous fittings. All the components of the proposed development should be considered together, and sited and designed to minimise visual impact. This should include the antennas, any supporting structure, equipment housing, cable runs, fencing, planting, landscaping, access power supply and land lines. Sensitive siting and design can play a part in allaying public concerns.

***It is considered that the significant increase in height of the telecommunications mast is not sensitive to the surrounding area as the prominence of the mast will greatly be increased. This proposal is therefore considered contrary to the advice of NPPG 19.***

6.4 Paragraph 53 of the NPPG 19 states that the planning system should not be used to secure objectives that are more properly achieved under other legislation. Emissions of radio frequency (RF) radiation are controlled and regulated under the appropriate legislation by the DTI and the Radiocommunications Agency. The Health and Safety Executive also have responsibilities. With these mechanisms in place, the Scottish Executive concludes that it is not necessary for Planning Authorities to treat RF emissions as a material consideration.

***The NPPG confirms that this approach and policy will be applied in the determination of any appeals arising from the refusal of telecommunications apparatus on the basis of RF emissions.***

6.5 NPPG 19 required that all applications for planning permission involving antennas must be accompanied by a declaration that the equipment is designed in compliance with the appropriate ICNIRP guidelines. The NPPG further states that reassurance should be drawn from the fact that the RF outputs from mobile phone base stations are set at the minimum levels commensurate with effective service provision. The technical conditions under which base stations operate are also specified in the operator's Wireless Technology licence.

***Health concerns are thus safeguarded by means other than through the planning process.***

#### Planning Advice Note 62: Radio Telecommunications

6.6 PAN 62 offers advice on good practice when dealing with Radio Telecommunications development. It emphasises that development must be undertaken in a manner that keeps environmental impact to a minimum. It states that siting and design can reduce visual intrusion and help allay public concerns. Equipment housing can be painted to blend in with its background, disguised as street furniture and compliments the urban landscape. Locating a mast within an existing group of trees and/or planting new trees and shrubs can help integrate it into the landscape.

***The proposed siting of the antennas and dishes, and the increase in the tower height, are not considered to accord with the advice advocated in PAN 62 as they would be very prominent and significantly higher than the backdrop of trees, which presently serve to reduce the impact of the existing mast.***

#### Planning History

6.7 The existing mast was erected under permitted development rights prior to the amendments to legislation which require all ground based masts to be subject to planning permission.

6.8 05/0013/FL: This application was for 3 no. 3G antennae, 2 no. 300mm transmission dishes, equipment cabin and meter cabinet, an

increase in tower height of 7.5 metres. It was withdrawn by the applicant on 04 February 2005.

## **7. FINANCIAL AND LEGAL IMPLICATIONS**

7.1 There are no financial or legal implications for the Council in the determination of this application.

## **8. CONCLUSIONS**

8.1 As indicated in Section 5 of this report, the application is considered to be contrary to the development plan. Therefore given the terms of Sections 25 and 37 (2) of the Town and Country Planning (Scotland) Act 1997 the application should be refused unless material considerations indicate otherwise.

8.2 As indicated in Section 6 there are material considerations relevant to this application. The consultation responses received have no adverse comments to make in relation to the application. The concerns of the objectors with regard to health matters and Radio Frequency Emissions are not material planning considerations and are safeguarded by other legislation and bodies as advised by NPPG 19. It further advises that it is the responsibility of the Scottish Executive and UK Government to decide what measures are required to protect public health.

8.3 However, with regard to the increase in height, it is considered that this would lead to an unacceptable visual impact, which is considered to be contrary to Policy CS2 of EALP. It also fails to accord with Government guidance in the form of NPPG 19 and PAN 62, which advocate that the installation of telecommunications apparatus must be undertaken in a manner that keeps environmental impact to a minimum.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be refused for the reasons indicated on the attached sheet.**

## **CONTRARY DECISION NOTE**

Should the Committee agree that the application be approved contrary to the recommendation of the Head of Planning, Development and Building Standards the application will not require to be referred to the Development Services Committee as it would not be a significant departure from Council policy.

**Alan Neish**  
**Head of Planning, Development and Building Standards**

05 April 2005  
(CP/MMM)

FV-AN

### **LIST OF BACKGROUND PAPERS**

1. Application Forms/Plans.
2. Statutory Letters/Certificates.
3. Consultations.
4. Letters of Objection.
5. Approved Ayrshire Joint Structure Plan.
6. Adopted East Ayrshire Local Plan.
7. National Planning Policy Guideline 19: Radio Telecommunications.
8. Planning Advice Note 62: Radio Telecommunications.

Anyone wishing to inspect the above papers please contact Claire Peters on 01563 576779.

***Implementation Officer: Dave Morris***

## EAST AYRSHIRE COUNCIL

## TOWN &amp; COUNTRY PLANNING (SCOTLAND) ACT 1997

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Site of Proposal:	Glacier Vandervell Ltd. Hurlford Road Riccarton KILMARNOCK KA1 3NA
Nature of Proposal:	Proposed Installation of 3 No. 2G Antennae, 3 No. 3G Antennae and 2 No. 300mm Transmission Dishes onto Existing T-Mobile Tower, Installation of Equipment Cabin and Meter Cabinet, and 7.5m Extension of Tower.
Name & Address of Applicant:	T-Mobile UK Ltd 5 Bell Drive HAMILTON G72 0FB

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DPO's Reference: CP/MMM

The above FULL application should be refused on the following grounds:

1. The proposed development would be contrary to Policy CS2 of the Adopted East Ayrshire Local Plan in terms of its height, prominence and impact on the townscape and the surrounding area.
2. The proposed development would be contrary to advice detailed in NPPG19: Radio Telecommunications and PAN 62 Radio Telecommunications which advocates that the installation of telecommunications apparatus must be undertaken in a manner that keeps environmental impact to a minimum.

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