

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 20 AUGUST 2004

**04/0525/FL: PROPOSED ERECTION OF 15 METRE TELECOMMUNICATIONS
TOWER, ASSOCIATED ANTENNAE, TRANSMISSION DISH, EQUIPMENT
CABINETS AND PALISADE FENCING
AT LORENY INDUSTRIAL ESTATE, SIMONSBURN ROAD, KILMARNOCK
BY HUTCHISON 3G UK LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning consent is sought for the erection of a 15 metre telecommunications tower, associated antennae, transmission dish, equipment cabinets and 2.1 metre high palisade fencing. The compound measures approximately 97.2 square metres and is accessed through McCall's yard at the top of Simonsburn Road.

2. RECOMMENDATION

2.1 It is recommended that the application be approved subject to the conditions on the attached sheet.

3. CONCLUSIONS

3.1 As indicated in Section 5 of this report, the application is considered to be in accordance with 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 approved unless material considerations indicate otherwise.

3.2 As indicated in Section 6 there are material considerations relevant to this application, principally the consultation responses received from the East Ayrshire Council's Roads and Transportation Division and Transco both of whom have no adverse comments to make in relation to the application. The letter of objection received has been satisfactorily addressed by the applicant and therefore it is not considered that any aspects of the letter of objection merit the refusal of this planning application.

3.3 The site is located within an existing industrial estate and bounded by industrial uses. The site is well chosen as it will not be visually intrusive to nearby residential properties as the proposals are screened by existing industrial units to the west, and other industrial land to the north and south in addition to 2 metre high palisade fencing. The application site is also physically separated from nearby residential dwellings by the recreation ground adjacent to Caprington Avenue creating a separate distance reducing any possible visual impact.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards it will not require to be referred to the Development Services Committee as there would be no significant breach of Council Policy.

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 under the scheme of delegation as it is subject to objections.

2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises a derelict area of land within the established Loreny Residential Estate. The application site is located within an existing industrial yard owned by Andrew McCall & Sons and the proposed mast is to be located at the western boundary of the yard. The land comprising the application site is currently overgrown and in general disrepair containing numerous redundant industrial machines and equipment as well as large amounts of industrial rubbish. The larger yard area is currently screened by a 2 metre wire fence and by existing industrial units of varying heights to the west extending towards Ayr Road. The industrial estate is screened by a 2 metre high fence at the boundary with the park land adjacent to Caprington Avenue which physically separates the application site from residential properties on Loreny Drive.

2.2 **Proposed Development:** Full planning consent is sought for the erection of a 15 metre telecommunications tower, associated antennae, transmission dish, equipment cabinets and 2.1 metre high palisade fencing. The compound measures approximately 97.2 square metres and is accessed through McCall's yard at the top of Simonsburn Road.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division, Transco and East Ayrshire Council's Environmental Health and Waste Management Division have no adverse comments to offer on the proposals.

Noted.

4. REPRESENTATIONS

4.1 There are two letters of objection to the proposal, a summary of the main points of the letter of objection are detailed as follows:-

4.2 Planning Advice Note 62 makes specific reference to operators sharing masts. There is a mast on the site across UMBERLEY ROAD which would appear to have substantial spare capacity for telecommunications equipment. Paragraph 44 states that the "conditions in the code system operators' licences require them to explore the possibility of sharing an existing radio site. Evidence of this should accompany Planning Applications".

The applicant has confirmed that the possibility of a site share opportunity was discounted at the nearby Orange mast because the result would be an increase in the size of the exclusion zone around the mast, that would affect buildings which at present are not impacted by the proposals. The applicant has advised that after careful consideration and discussion with Orange it was decided that this would create an unacceptable impact on the users of the area.

4.3 The proximity of powerful telecommunications equipment in such close proximity to flammable gas is of concern. This is because there is a prohibition on the use of mobile telephones in fuel station forecourts and serious concern is raised about very much more powerful equipment being in close proximity to substantial stores of highly flammable liquid and gas so close to their premises.

If the Division is minded to recommend this application for approval, the objector has requested a written assurance from the applicant that there will be no danger whatsoever in this regard. Furthermore, the occupant of Unit 2 is Scrimsign Micro Electronics Ltd (manufacturing electronic display equipment), whose specific concern is the possibility of side band emissions harming their delicate electronic equipment and instrumentation. Their business uses radio and land line communications equipment to control the displays and consider that the antennae would generate powerful radio interference which almost certainly would interfere with the manufacture and commissioning of their products. If implemented the proposals will cause the company to re-locate out of East Ayrshire altogether. The corner of the application site is within approximately 6

metres of the corner of their building. If it is intended to recommend this application for approval then written assurance from the operator is also sought to ensure that side band emissions (or any harmful effect) from this proposal would not harm their sensitive equipment.

The applicant has advised that all Hutchison 3G base stations are classified as low power transmitters. The Hutchison 3G proposal will have a peak power of 20 watts per channel and as such poses a very small risk to both explosive atmospheres and electromagnetic incompatibility in the environment. The applicant also states that the placement of the antennae will adhere to the minimum safe distances required for all explosive atmospheres. Considering the small transmit power and the distance to Scrimsign Micro Electronics Ltd, electromagnetic compatibility between the proposed instruments and their systems can be assured.

The relevant EU Regulation governing radio emitters near to explosive atmospheres is contained within the ATEX ("Atmospheres' Explosibles") Directive 94/9/EC. The Directive describes the minimum amount of energy, required per gas type that could result in an inadvertent explosion. Upon a review of the proposal the applicant states they can assure that the placement of the antennae will adhere to the minimum safe distances required for all explosive atmospheres.

The applicant has explained that the proposed base station equipment has been CE marked as testament of full compliance with all relevant electromagnetic compatibility standards. As defined within the ETSI (European Telecommunication Standards Institute) standards (3GPP TS 25.101 v 3.14.0) all side band emissions are significantly filtered to reduce the possibility of electromagnetic interference. Considering the small transmit power and the distance to Scrimsign Micro Electronics Ltd, electromagnetic compatibility between the proposed installation and their systems can be assured.

4.4 The application site is within ground owned by A McCall who has a very large yard and from a visual inspection from the objector's site it would appear that there are many other suitable locations within the yard where the equipment could be located further away from Scrimsign's delicate equipment.

Noted. The applicant has confirmed that the proposed location of the telecommunications mast and associated equipment was chosen as a result of the need to site the installation away from the operational area of Mr McCall's yard to avoid any disturbance to the function of this business, including customer and employee parking, deliveries, distribution and storage of products and materials.

The applicant also states that the information provided clarifying the safety of their equipment in relation to the neighbouring unit occupied by Scrimsign Micro Electronics and in respect of nearby storage of flammable gas also justifies their decision to site the mast in their chosen location.

4.5 Planning Advice Note 62 also makes reference to fitting of antennae to electricity pylons and there are pylons not too distance from the site that should be considered by the applicant.

The applicant states that Hutchison 3G have entered into negotiations with Scottish Power with a view to locating antennae on pylons on a number of occasions but have been unable to agree terms. These negotiations have been unsuccessful for a number of reasons but mainly due to operational issues, regarding maintenance of the equipment, power supply and access. Having considered other locations utilising pylons, Hutchison 3G have also discovered that it is very rare for Scottish Power to own the land where a pylon is located as the wayleaves for pylons tend to cover only the legs of the pylons and the land on which they stand. This in turn would lead to even more complicated lease agreements with two different site providers with the antennas on the pylon and the related ground based cabinets on a separate site providers land. These issues have led to Hutchison 3G discounting pylons as not feasible options when searching for suitable site locations. In this instance the overriding factor that led to the nearby line of pylons being discounted as a suitable alternative is the fact that they run straight through a nearby housing estate, a sensitive land use that it is recommended, in national and local guidance, be avoided where possible when choosing a site location.

4.6 Planning Advice Note 62 makes specific reference to Planning Authorities taking cognisance of the cumulative effects where two or more masts are intervisible (paragraph 35). The objectors believe that the re-location of the proposed telecommunications mast and associated equipment to another area in the site would reduce the cumulative effect of having 2 masts in close proximity to one another.

Noted. PAN 62 Paragraph 35, advises that Planning Authorities must have regard to the cumulative effects when two or more masts are simultaneously visible. It is however considered that the distance between both masts is sufficient to prevent these masts from having a detrimental visual impact on the area. Pan 62 Paragraph 92, also advises that less visually sensitive areas, such as industrial areas, may offer the best opportunity for siting telecommunications equipment. It is considered that whilst noting

the objector's concerns, on balance the siting of the mast at the proposed location is acceptable due to the application being within an identified industrial area. The site is currently disused and in a general state of disrepair and there is an acceptable distance between both the existing and proposed telecommunication masts so as not to have an adverse cumulative effect.

4.7 Whilst the detrimental effects on the health of those living or working in the proximity of such equipment has never been definitely proved it is understood that there is legislation limiting the proximity of masts to schools, etc. Given that there is already a mast nearby, concern is expressed that health of residents and workers could be put at risk and written assurance is required that this will not be the case.

NPPG (National Planning Policy Guidelines) 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 however requested that any applicant demonstrates that the known health effects have been properly addressed. Applications involving antennae 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.

4.8 The owner of the estate has still not received neighbour notification from the applicant nor have many of the tenants. The individual tenants have a common right of access over the entire estate and it is considered that all tenants should receive neighbour notification.

Noted. The applicant has confirmed in writing that the neighbour notification process was carried out on 13 July 2004, notifying the owner and lessees of the industrial estate.

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 Approved Ayrshire Joint Structure Plan and the Adopted East Ayrshire Local Plan (EALP).

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

Loreny Estate is identified for industrial purposes in the Local Plan. Although not strictly an industrial use, this proposal is considered suitable for its intended siting within the rear part of the estate. The proposal would also have the advantage of bringing into beneficial use a currently derelict part of the estate. While the mast would be the tallest structure in the estate it would be set well back from both Ayr Road and Caprington Avenue and it is therefore considered it would not be visually intrusive. The siting and appearance of the mast and compound accord with the respective criteria for locational need and design of such installations as set out in PAN 62. It is considered that due to the industrial nature of the area and the distance between the proposed and existing telecommunications mast that the cumulative impact of both masts would not have a detrimental impact on the visual amenity of the area. The mast is well screened from Ayr Road by other industrial properties that are of varying heights, sizes and massing. It is also a significant distance from the closest residential properties on Loreny Drive with Caprington recreation ground in between creating in effect a buffer zone. The applicant has also provided sufficient justification explaining why site-sharing was not a feasible option in this case.

5.4 Policy CS3 of the Adopted EALP is also relevant and refers to the need for telecommunications operators to take account of radiation emissions in their planning submissions.

It should be noted that the content of Policy CS3 has been superseded by the provisions of NPPG 19: Radio Telecommunications. Under Paragraph 53 of this guidance, 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 the application are the consultation responses received that are addressed in Section 3 of this report and the letters of objection addressed at Section 4 of this report.

Consultation Responses and Representations Received

6.2 None of the statutory consultees have raised any issues that would warrant the refusal of this application.

6.3 It is considered that the objectors' concerns in relation to the location of the proposed telecommunication mast and the safety of telecommunications equipment being in close proximity to flammable gas and electronic equipment and the justification provided for not being able to enter a site-sharing agreement for the proposed telecommunications mast have been adequately addressed by the applicant. The objectors' concerns in relation to health and safety matters are not considered to be a material consideration in the determination of this application and the applicant has undertaken appropriate neighbour notification. Whilst noting these objectors' concerns it is not considered that any aspects of the letters of objection merits the refusal of this application.

Planning History

6.4 97/0468/FL – Proposed extension to existing commercial workshop
Approved 14 August 1997 by delegated powers.

99/0385/FL – Raise ground level and erection of two industrial units.
Approved with conditions 01 October 2000 by delegated powers.

00/0260/FL – Change of use of open space to form hardstanding as part of industrial yard. Approved with conditions on 13 July 2000 by delegated powers.

6.5 Members are advised that this Division does not consider that the previous applications determined at this site are related to the current proposal for the erection of a telecommunications mast.

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 in accordance with 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 approved unless material considerations indicate otherwise.

8.2 As indicated in Section 6 there are material considerations relevant to this application, principally the consultation responses received from the East Ayrshire Council's Roads and Transportation Division and Transco both of whom have no adverse comments to make in relation to the application. The letter of objection received has been satisfactorily addressed by the applicant and therefore it is not considered that any aspects of the letter of objection merit the refusal of this planning application.

8.3 The site is located within an existing industrial estate and bounded by industrial uses. The site is well chosen as it will not be visually intrusive to nearby residential properties as the proposals are screened by existing industrial units to the west, and other industrial land to the north and south in addition to 2 metre high palisade fencing. The application site is also physically separated from nearby residential dwellings by the recreation ground adjacent to Caprington Avenue creating a separate distance reducing any possible visual impact.

9. RECOMMENDATION

9.1 It is recommended that the application be approved subject to the conditions on the attached sheet.

CONTRARY DECISION NOTE

Should the Committee agree that the application be refused contrary to the recommendation of the Head of Planning, Development and Building Standards it will not require to be referred to the Development Services Committee as there would be no significant breach of Council Policy.

Alan Neish
Head of Planning, Development and Building Standards

11 August 2004
(BD/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Adopted East Ayrshire Local Plan.
5. Approved Ayrshire Joint Structure Plan.
6. Planning Advice Note PAN 62 – Radio Telecommunications.
7. National Planning Policy Guideline (NPPG) 19 – Radio Telecommunications.

Anyone wishing to inspect the above papers please contact Barry Douglas on 01563 576770.

Implementation Officer: Dave Morris

04/0525/FL

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/0525/FL

Site of Proposal:	Loreny Industrial Estate Simonsburn Road KILMARNOCK
Nature of Proposal:	Proposed Erection of a 15m Telecommunications Tower, Associated Antennae, Transmission Dish, Equipment Cabinet and Palisade Fence
Name & Address of Applicant:	Hutchison 3G UK Ltd Per Agent
Name & Address of Agent:	Mono Consultants Ltd 48 St Vincent Street GLASGOW G2 5TS

DPOs Reference: BD/MMM

The above FULL application should be granted subject to the following conditions:-

1. In the event that equipment becomes obsolete or redundant it must be removed and the site reinstated to the satisfaction of the Planning Authority within 6 months of the date that the equipment became obsolete or redundant.

REASON To minimise the level of visual intrusion, and ensure the reinstatement of the site to a satisfactory standard.

2. No symbols, signs, logos, or other lettering shall be displayed on any part of the structure, antennae, equipment housing or fencing without the prior written approval of the Planning Authority, except small signage necessary for operational reasons.

REASON To minimise the level of visual intrusion and protect the quality and character of the site as far as practicable.

**DUE TO ORDNANCE SURVEY REGULATIONS AND COPYRIGHT
THE MAP IS AVAILABLE FOR VIEWING AT THE COUNCIL'S
PLANNING OFFICE IN KILMARNOCK. FOR INFORMATION ON
VIEWING PLEASE CONTACT (01563) 576790.**