

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 4 FEBRUARY 2005

REFERENCE NO. 04/1145/FL: PROPOSED INSTALLATION OF 3 NO. VODAFONE POLES WITH 2 NO. 2G AND 3G ANTENNAS ATTACHED, SUPPORTING EQUIPMENT INCLUDES 2 NO. EQUIPMENT CABINETS, PLACED ON STEEL GRILLAGE WITH A PLATFORM, HANDRAILING AND ACCESS AND EXTENSION TO ROOF WALKWAY AT RUGBY PARK, RUGBY ROAD, KILMARNOCK, KA1 2DP BY VODAFONE UK LTD

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

Full planning consent is sought for the installation of 3 No Vodafone telecommunications poles with 2 No 2G and 3G antennas attached, and supporting equipment including 2 No equipment cabinets, placed on steel grillage with a platform, handrailing and access and an extension to the roof walkway. All equipment is to be located on the rooftop of the East stand of Rugby Park, Rugby Road, Kilmarnock, and all equipment is proposed to be steel, and grey in colour.

2. RECOMMENDATION

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

3. CONCLUSIONS

3.1 As is indicated at Section 5 of the report, the application is not in accordance with the Adopted East Ayrshire Local Plan and 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, and they are not supportive of the development. The concerns expressed regarding Health and Safety issues are not material considerations as advised by NPPG 19. The proposed development would create a detrimental

impact on the visual amenity of the area in particular when viewed from McLelland Drive as the proposed antennas are much higher than the antennas already on the floodlights. As a result they would have a visually intrusive affect on the area. The proposed development therefore conflicts with Policy CS2 of EALP, NPPG 19 and PAN 62.

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.

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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REFERENCE NO. 04/1145/FL: PROPOSED INSTALLATION OF 3 NO. VODAFONE POLES WITH 2 NO. 2G AND 3G ANTENNAS ATTACHED, SUPPORTING EQUIPMENT INCLUDES 2 NO. EQUIPMENT CABINETS, PLACED ON STEEL GRILLAGE WITH A PLATFORM, HANDRAILING AND ACCESS AND EXTENSION TO ROOF WALKWAY AT RUGBY PARK, RUGBY ROAD, KILMARNOCK, KA1 2DP BY VODAFONE UK LTD

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.

2. APPLICATION DETAILS

2.1 **Site Description:** This application relates to the ground of Kilmarnock Football Club at Rugby Park. The application site is on the rooftop of the east stand, at a height of 18.4 metres and on one of the floodlighting towers. This floodlighting tower is approximately 24 metres north east of another floodlighting tower with 2 no. telecommunications antennas existing. Rugby Park is within an established residential area, immediately adjacent to Dundonald Road Outstanding Conservation Area. The surrounding streets, including South Hamilton Street, Dundonald Road and McLelland Drive comprise detached and semi-detached properties, and several Listed Buildings on Dundonald Road overlook the site.

2.2 **Proposed Development:** Full planning consent is sought for the installation of 3 No Vodafone telecommunications poles with 2 No 2G and 3 G antennas attached. Supporting equipment including 2 equipment cabinets, placed on steel grillage with a platform, handrailing and access and an extension to the roof walkway. All equipment is to be located on the rooftop of the East stand of Rugby Park, and all equipment is proposed to be steel, and grey in colour.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council 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 guidelines.

3.2 Grange Howard Community Council has objected to the proposal. The Community Council has sought further information regarding potential health concerns, and this has been dealt with through previous correspondence. The Community Council's objection is on the grounds of potential health implications, and the limitations of the role of the planning authority in addressing these issues. The Community Council requested that this application be deferred until they can make representations to the Health and Safety Executive.

The request for further information has been addressed through correspondence between the Planning Division and the Community Council. The role of the planning authority in considering health matters is addressed in Section 4.4 below. The Community Council has been advised that the Health and Safety Executive do not normally wish to be consulted on telecommunications applications, and have not been consulted regarding this application. The request for deferral of consideration of this application is not appropriate as health matters are safeguarded through other legislation.

4. REPRESENTATIONS

4.1 There are 107 objectors to the proposed development including one from Grange/Howard Community Council detailed in 3.2 above plus a petition of 153 signatures. The issues raised are as follows:-

4.2 National Planning Policy Guidance and Planning Advice recommends siting equipment to minimise public concern, and this may include less visually sensitive areas such as industrial areas. The proposed installation is within a densely populated residential area, on the boundary of a Conservation Area, and close to three schools.

Planning advice also states that locating equipment on existing buildings may be acceptable, with this including floodlighting

towers. In this respect, the Council does not dispute that the applicant has considered the series of options as per Government guidance . The location of the antennas in proximity to schools and housing may not be taken into account by the planning authority with regard to health impacts. The location adjacent to a Conservation Area is noted, and discussed further in Section 5 below.

4.3 Rugby Park is already considered an eyesore by many neighbouring residents, and the proposed antennas will create more visual intrusion. The erection of the antennas will add to the height of Rugby Park, contrary to a promise made several years ago when the Park was built, that the height would not exceed the height of the previously existing stand. Planning Advice Note (PAN) 62 should be considered, in relation to cumulative effects where two or more masts are simultaneously visible.

The visual impact of the proposal has been considered and photomontages have been submitted by the agent. It is considered that the antennas, by virtue of their height and thickness, will create an unacceptable visual impact and visual intrusion since they extend higher than the existing stand and would be very visible on the skyline from McLelland Drive.

PAN 62 advises to avoid equipment on structures which has a visually damaging cumulative effect. It is not considered that in this instance that the antennas would create a visual damaging cumulative effect.

4.4 The Independent Expert Group on Mobile Phones (IEGMP) concluded that it was not possible to say that exposure to radio frequency radiation was totally without potential adverse health effects. A precautionary approach was recommended and this should be adopted in determining this application by not siting masts within residential areas.

Recent government guidance in the form of NPPG19 states that the planning system should not be used to secure objectives that are properly achieved under other legislation. Emissions of radio frequency radiation are controlled and regulated under the appropriate legislation by the DTI and the Radio Communications Agency. The Scottish Executive concludes that it is not necessary for Planning Authorities to treat the Radio Frequency emissions as a material consideration. Applications for planning permission for antennas must be accompanied by a declaration that the installation is designed to comply with ICNIRP guidelines for public exposure to radiofrequency radiation. An ICNIRP certificate was submitted with

this application and therefore the proposal meets the terms of NPPG19.

4.5 The IEGMP also recommended that the beam of greatest intensity should not be permitted to fall on any part of a school without the agreement of the school and parents. This beam may fall on the homes of local residents, or one of the schools, or the nursery within the area, causing detriment to health. The Council may be exposing itself to a risk of litigation should this installation be allowed within a densely populated area.

See response 4.4 above.

4.6 The Mobile Operators Association have introduced ten best practice commitments, including a "Traffic Light Rating Model for Public Consultation." Given the proximity to housing and a Conservation Area, nearby residents should have been consulted previously but this did not happen. Also, the Council has not notified nearby residents of the proposal.

The proposal was assessed against the Traffic light criteria as per guidance, and it was given an Amber rating. Vodafone's agent advised the Council that the decision taken on whom to consult prior to an application is considered on a site by site basis. Since there is existing telecommunications equipment at this site and the property is commercial in nature, the agent decided not to extend pre-application consultation beyond writing to the local Councillor and Community Council. 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. Therefore the applicant has carried out the formal notification in terms of planning procedure.

4.7 House prices will be reduced and in the longer term this may raise the prospect of litigation for the Council.

The impact of development on property prices is not a material planning consideration. There are no implications for the Council where determination is carried out in an appropriate manner.

4.8 The plans submitted with the application seem limited, do not seem to show the installation from all angles and seem to ignore existing installations and the supporting structure of the roof. Given the location on the boundary of a Conservation Area, have Vodafone been asked for visual impact assessments and montages from key view points?

The applicant has submitted photomontages to assess the visual impact from McLelland Drive, since this is considered to be the point at which the antennas will be most prominent. Photomontages of the antennas from within the stadium were also requested to consider the height and prominence of the proposed antennas in relation to the existing antennas.

4.9 Historic Scotland's Guidance on Listed Buildings and Conservation Areas states that any proposal that maximises transmitter performance at the expense of building or streetscape character should not be permitted.

This Division considers that in this instance the visual impact of the proposed antennas on the streetscape would be unacceptable, especially from McLelland Drive.

4.10 The objectors request that if consent is granted, conditions are attached regarding monitoring the site for public exposure guidelines, beam of greatest intensity, television, radio or satellite reception and removal of the equipment if adverse health effects are found.

As discussed in section 4.4 above, these are matters which are safeguarded through other bodies and legislation and cannot be controlled through the planning process.

5. ASSESSMENT AGAINST DEVELOPMENT PLAN

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

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

Adopted East Ayrshire Local Plan

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

It is noted that the proposed poles and ancillary equipment would be situated well forward on the stadium canopy but behind the existing floodlighting equipment. However, despite this they would be visible above the stadium canopy from parts of Dundonald Road and particularly when viewed from McLelland Drive on the approach to Dundonald Road from the east. The proposal would therefore have an adverse effect on the amenity of the Dundonald Road Outstanding Conservation Area. In view of this it is considered that the proposal would not accord with the design criteria set out in Policy CS2.

5.3 Policy CS3 sets out specific separation distances for telecommunications installations to certain sensitive land uses (educational, health service or residential) 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: Radio Telecommunications. Paragraph 53 of this guidance states 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. Those matters referred to in Policy CS3 should therefore no longer be regarded as material considerations in assessing planning applications. The issues it refers to are consequently not applicable to this application.

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, NPPG19 Radio Telecommunications and planning history of the site.

6.2 It is considered that Grange Howard Community Council and the objector's concern in relation to health and safety matters are not a material consideration in the determination of this application. The objectors have also expressed concern regarding the visual impact of the proposed antennas on the immediate area. This view is echoed by this Division.

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 antennae, 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.

The proposed antennas conflict with the advice contained in NPPG19 as they have been sited and designed in such a way as to have a detrimental impact on the visual amenity of the area in particular when viewed from McLelland Drive.

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 requires that all applications for planning permission involving antennae 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. The Planning Advice Note whilst encouraging the installation of equipment on existing buildings and

structures advises that it should have minimal impact on the roof line, respect important views or skylines be coloured to match the background, and be in proportion to the size of the structure.

The proposed siting and design of the antennas conflicts with the advice advocated in PAN 62 as they will create an unacceptable visual intrusion and visual impact.

Planning History

6.7 There are 2 existing antennas on the floodlight structure which were erected before changes to the Town and Country Planning General Development Order 1992 required planning permission for this type of development.

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 is indicated at Section 5 of the report, the application is not 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 refused unless material considerations indicate otherwise.

8.2 As indicated in Section 6 there are material considerations relevant to this application, and they are not supportive of the development. The concerns expressed regarding Health and Safety issues are not material considerations as advised by NPPG 19. The proposed development would create a detrimental impact on the visual amenity of the area in particular when viewed from McLelland Drive as the proposed antennas are much higher than the antennas already on the floodlights. As a result they would have a visually intrusive affect on the area. The proposed development therefore conflicts with Policy CS2 of EALP, NPPG 19 and PAN 62.

9. RECOMMENDATION

9.1 It is recommended that this application be refused for the reasons given 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

FV/DVM

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

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EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

Site of Proposal: Rugby Park, Rugby Road, Kilmarnock, KA1 2DP

Nature of Proposal: Proposed installation of 3 no. Vodafone poles with 2 No. 2G and 2 No. 3G antennas attached, supporting equipment includes 2 No. equipment cabinets, placed on steel grillage with a platform, handrailing and access and extension to roof walkway.

Name & Address of Applicant: Vodafone (UK) Ltd, Vodafone House, The Connection, Newbury, Berkshire, RG14 2FN

Name & Address of Agent: Mono Consultants Ltd
48 St Vincent Street
Glasgow G2 5TS

DPOs Reference: CP

The above FULL application should be refused for the following reasons:-

1. The proposed development would be contrary to Policy CS2 of the Approved East Ayrshire Local Plan, NPPG 19 Radio Telecommunications and PAN 62 Radio Telecommunications by reason of the height, design, size and siting of the antennas. The proposed antennas would have a detrimental effect on the character and amenity of the area in general and the Dundonald Road Outstanding Conservation Area in particular.