

EAST AYRSHIRE COUNCIL

CENTRAL LOCAL PLANNING COMMITTEE: 04 MARCH 2005

**04/1217/FL: PROPOSED INSTALLATION OF AN 8 METRES HIGH
STREETWORKS MONOPOLE WITH CABINETS AND OTHER ANCILLARY
DEVELOPMENT
AT LAND ADJACENT LAMP POST R19, GRASSYARDS ROAD,
KILMARNOCK
BY VODAFONE UK LTD**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 Full planning consent is sought for the erection of an 8 metre high pole with a 1.3 metre high antenna to the top of the pole. A street-side cabinet measuring 1.5 metres in height and a electrical meter cabinet measuring 1.0 metre in height also forms part of the application, to be situated adjacent to the 2.4 metre high cemetery wall.

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 of the report there are material considerations relevant to this application. The consultation responses received have no adverse comments to make in relation to the application. Whilst noting the concerns of the objectors it is not considered that any aspects of the letters of objection are of sufficient weight to merit the refusal of this planning application. The development is supported by government guidance NPPG 19 and PAN 62 which advocate that telecommunications apparatus must be undertaken in a manner that keeps environmental impact to a minimum.

3.3 Recent Government advice in the form of NPPG 19 gives very clear guidance that health matters and Radio Frequency Emissions are not a material planning consideration and are safeguarded by other legislation and bodies. 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. Provided the guidance in NPPG 19 is followed it is unlikely that planning authorities could find justification for applying extended or alternative requirements in development control. They also advise that the approach advocated in NPPG 19 will also be applied in the determination of appeals.

3.4 The proposed streetworks pole is of a similar height, design and size to the adjacent lampposts and as a result it is considered that the proposals will be appropriate to the streetscape. The proposed apparatus and associated equipment would be sited so as to minimise their impact on the amenity of the surrounding area and thereby to help allay public concerns.

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 an area of land adjacent to Lamppost R19 approximately 30 metres to the north of the roundabout on Strawberrybank Road/Grassyards Road. To the north of the application site is St Josephs Academy Playing fields, to the south and east of the application site is the Kilmarnock Cemetery, while to the west of the application site is a Scottish Power electrical sub-station and residential properties.

2.2 **Proposed Development:** Full planning consent is sought for the erection of an 8 metre high pole with a 1.3 metre high antenna to the top of the pole. A street-side cabinet measuring 1.5 metres in height and a electrical meter cabinet measuring 1.0 metre in height also forms part of the application, to be situated adjacent to the 2.4 metre high cemetery wall.

3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Roads and Transportation Division and Environmental Health and Waste Management Division have no adverse comments to make regarding the proposed development.

Noted.

3.2 East Ayrshire Council's Educational and Social Services Department object to the location of the proposed mast in close proximity to St Josephs Academy, St Matthews Primary School and Park School on the grounds of safety and well being of the young people who attend these educational establishments as evidence exists to suggest that such developments are detrimental to the health of young people.

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 the responsibility of the applicant to demonstrate 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.

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.

3.3 Transco and New Farm Loch Community Council and Piersland/Bentinck Community Council have not responded to their consultation letter at the time of writing this report.

Noted.

4. REPRESENTATIONS

4.1 There are five objectors to the proposed development, including one from East Ayrshire Council Educational and Social Services Department and one from the School Board as detailed in 3.2 above. Their grounds of objection are detailed as follows:-

4.2 The site location plan details are inaccurate and there is a lack of specific details regards the height of the antenna, frequency and signal characteristics and details of power.

There do not appear to be any inaccuracies on the location plan that forms part of the planning application. The applicant has provided elevational drawings showing the height of the proposed pole and antenna. The applicant has also submitted 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 which meets the requirements of NPPG19 Radio Telecommunications.

4.3 The visual impact the proposed development would have on the immediate vicinity.

It is considered the design of the proposed street-works pole and antenna is appropriate as the proposed street-works pole and antenna are of a similar size to the adjacent lampposts. A condition can be placed on any grant of planning consent requiring details to be submitted of the colour of the pole to further reduce the visual impact of the proposals.

4.4 The proposals are not more than 100 metres from St Joseph's Academy, Park School and houses on Strawberrybank Road and Kay Park as indicated under Policy CS3 of the Adopted EALP.

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.

4.5 The objector has been notified of the outline planning application for St Joseph's Academy which the objector believes will bring staff and pupils closer

to the mast while the objector states he has not been notified by the East Ayrshire Council's Education Department as a parent of a St Joseph's Academy pupil.

The Education Department has been notified of the proposed development and it is a matter for that Department whether they notify parents of pupils of such applications. However in terms of planning procedure the applicant has carried out the statutory neighbour notification process and a public advertisement of the application has also taken place in the local press.

4.6 A cemetery is adjacent to the site and a cemetery is classed as a listed building.

Noted. The proposed streetworks pole is situated adjacent to Kilmarnock Cemetery although the Cemetery is not listed. The gatehouse and west lodge are Category B listed and are situated some 120 metres from the proposed development and it is considered that the proposed streetworks pole will not detract from the setting of the listed building.

4.7 The Government' Independent Expert Group on Mobile Phones in a document termed the Stewart Report, specifically recommends that the beam of greatest intensity should not be allowed to fall on school grounds without the express permission of the school and parents. This beam will certainly fall on the grounds of St Joseph's Academy and Park School and will be within 500 yards of New Farm Primary, St Matthew's Primary and James Hamilton Academy. With the recent Government publications on guidelines and recommendations regarding the restricted use of mobile phones by children together with the possible health hazards associated with their use yet to be determined, the siting of a telecommunications mast in the vicinity of children's school will obviously cause parents a great deal of concern.

Recent Government guidance in the form of NPPG 19 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 through the appropriate legislation by the DTI and the Radiocommunications Agency. The Scottish Executive concludes that it is not necessary for Planning Authorities to treat RF emissions as a material planning consideration.

4.8 The description of the location of the proposed installation is confusing as there are two lamp posts defined as R19 on Grassyards Road.

The description on the application is considered as appropriate when taken with the plans being available to be viewed by the public in the Planning Development and Buildings Standards Division.

4.9 The timing of the application is believed to have been specifically designed to minimise public awareness as few people would have had time to read the public notices in the Kilmarnock Standard.

The Division cannot dictate when planning applications are made and the public advertisement of the application was made at the earliest possible time after the application became valid.

4.10 Vodafone has a fully operational network in that area. This is unnecessary saturation.

The applicant has submitted justification for the location of the mast in order to provide Vodafone 3G coverage to the surrounding area.

4.11 It is considered that the neighbour notification is insufficient and the Local Authority has a duty of care to ensure the local population is fully aware of what is being proposed.

The neighbour notification carried out by the applicant is sufficient to meet the terms of the Town and Country Planning (Scotland) Act 1997 and the applicant does not require to do any further neighbour notification. The procedures of this Division ensure that the application is also subject to an advertisement in the local press to ensure the maximum number of people are aware of the application.

4.12 The style of proposed installation does not include, or lend itself to, any physical barrier to protect the public as recommended by the Stewart Report. It should be remembered that this is a microwave radiation emitting device.

Members are referred to the response to para 4.7 above.

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.

It is considered that the proposed development will not have a detrimental impact on the visual amenity of area as it is of a similar height and size to the adjacent lamp posts. There is also an Electricity Sub-station immediately to the west of the application site. The proposed streetworks pole is sited adjacent to a busy junction where there is already a lot of street activity and street equipment. The applicant has also provided sufficient justification explaining why site-sharing and alternative locations were not feasible options 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 and to be at least 100 metres from continually occupied premises in educational or residential use.

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, it is stated, 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, planning history, NPPG 19: Radio Telecommunications and PAN 62 Radio Telecommunications

Consultation Responses and Representations Received

6.2 It is not considered that any aspects of the consultation responses or letters of objection received have raised any issues that would warrant the refusal of this application. The applicant has taken into account NPPG 19 and PAN 62 in terms of the siting and design of the equipment. Their concerns in relation to health have been addressed by the submission of the ICNIRP certification.

Planning History

6.3 04/0859/FL Proposed 10 metre high streetworks pole, one no. streetworks cabinet and one no. meter cabinet and other ancillary development, withdrawn by the applicant on 09 November 2004.

The previous application was withdrawn by the applicant after extensive discussions with this Division regarding the siting of the proposed streetworks adjacent to the Kay Park Conservation Area and the Listed West Lodge Gatehouse and Gate piers of Kilmarnock Cemetery. The previous application site was situated approximately 30 metres to the south of the present application site and was highly prominent in relation to the Kay Park Conservation Area and was also considered unacceptable given the previous streetworks pole was 1.3 metres higher than the lampposts on Grassyards Road.

National Planning Policy Guideline 19: Radio Telecommunications

6.4 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 through 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 streetworks pole is to be sited in a built-up area, adjacent to existing street lamp-posts and street equipment. It is not considered that it would lead to visual clutter and would be detrimental to the visual amenity of the area.

6.5 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.

6.6 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 Telegraphy licence.

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

Planning Advice Note 62: Radio Telecommunications

6.7 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 that complements the urban landscape. The contrast of ground based masts is likely to be minimised in locations that already contain engineered forms and structure.

The proposed pole and associated equipment housing have been designed and sited to minimise its impact on the adjacent streetscape and thus, by careful design, can public concerns be allayed. The proposed street works pole is of a lower height than the surrounding lamp posts but of a similar design. The equipment housing is to be sited adjacent to the cemetery wall thus reducing its visual prominence.

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 of the report there are material considerations relevant to this application. The consultation responses received have no adverse comments to make in relation to the application. Whilst noting the concerns of the objectors it is not considered that any aspects of the letters of objection are of sufficient weight to merit the refusal of this planning application. The development is supported by government guidance NPPG 19 and PAN 62 which advocate that telecommunications apparatus must be undertaken in a manner that keeps environmental impact to a minimum.

8.3 Recent Government advice in the form of NPPG 19 gives very clear guidance that health matters and Radio Frequency Emissions are not a material planning consideration and are safeguarded by other legislation and bodies. 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. Provided the guidance in NPPG 19 is followed it is unlikely that planning authorities could find justification for applying extended or alternative requirements in development control. They also advise that the approach advocated in NPPG 19 will also be applied in the determination of appeals.

8.4 The proposed streetworks pole is of a similar height, design and size to the adjacent lamp posts and as a result it is considered that the proposals will be appropriate to the streetscape. The proposed apparatus and associated equipment would be sited so as to minimise their impact on the amenity of the surrounding area and thereby to help allay public concerns.

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

23 February 2005
(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.
8. Planning Application No. 04/0859/FL

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

Implementation Officer: Dave Morris

041217FLGrassyardsRoadKilmarnockMMM

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

04/1217/FL

Site of Proposal: Adjacent Lamp Post R19
Grassyards Road
KILMARNOCK KA3 7SH

Nature of Proposal: Proposed Installation of an 8m High
Streetworks Monopole with Cabinets and Other
Associated Ancillary Development

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: BD/SA

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.

3. Notwithstanding the submitted plans hereby approved the streetworks pole, cabinets and associated equipment shall be painted in a colour to be agreed with the Planning Authority in writing prior to the commencement of development on-site and implemented as approved prior to the use of the equipment.

REASON In the interests of visual amenity

**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.**