

## **EAST AYRSHIRE COUNCIL**

**NORTHERN AREA LOCAL PLANNING COMMITTEE: 17 MARCH 2006**

**06/0121/FL: PROPOSED ERECTION OF A 22.6 METRE HIGH SLIMLINE  
MONOPOLE WITH EQUIPMENT HOUSING CABINET AND ANCILLARY  
DEVELOPMENT AND FORMATION OF PROPOSED LANDSCAPING AREA  
AND FENCING  
AT WEST MOSSIDE FARM, KIRKLANDSIDE, KILMARNOCK  
BY VODAFONE UK LTD**

### **EXECUTIVE SUMMARY SHEET**

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

1.1 Planning permission is sought to erect a 22.6 metres high telecommunications monopole tower with ancillary ground based equipment housing and the formation of a 600 sq metres fenced landscaping area adjacent to the proposed mast. The telecommunications mast will accommodate three Vodafone antennae, and two Vodafone dish antennae. It is proposed to surround the perimeter of the application site with a 1.2 metre high post and rail fence. The application has been supported by the necessary ICNIRP certificate, coverage plots and supporting information.

1.2 The current application represents a 0.1 metre higher mast than previously approved at appeal by the Scottish Executive, seeks to install an additional transmission dish and alters the location of the proposed mast within the compound. Minor amendments to the location of the boundary of the compound and area of the compound of the telecommunications mast and ancillary equipment are proposed. The current application is required given that the planning permission for the appeal decision has not been implemented and therefore Vodafone cannot exercise their permitted development rights under The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, Part 20, Class 67.

#### **2. RECOMMENDATION**

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

### **3. CONCLUSIONS**

3.1 As indicated in the report the application is considered to be in accordance with the terms of the Development Plan. Therefore it should be approved unless material considerations indicate otherwise.

3.2 As per Section 6 of the report there are material considerations relevant to the application. With the exception of the representations, the material considerations do not indicate that the application should be refused and in respect of the representations it is considered that these are not of sufficient weight to merit the refusal of the application given the application of appropriate conditions.

### **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, the application will not require to be referred to the Development Services Committee as that would not be a significant departure from 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, due to the fact that an objection has been submitted in respect of the application.

### 2. APPLICATION DETAILS

2.1 **Site Description:** The application site comprises agricultural land, located to the north of an agricultural field and immediately to the south of Kirklandside Hospital, Hurlford. The site is partially screened to the north by a tree covered area.

2.2 **Proposed Development:** Planning permission is sought to erect a 22.6 metre high telecommunications monopole tower with ancillary ground based equipment housing and the formation of a 600 sq metres fenced landscaping area adjacent to the proposed mast. The telecommunications mast will accommodate three Vodafone antennae, and two Vodafone dish antennae. It is proposed to surround the perimeter of the application site with a 1.2 metre high post and rail fence. The application has been supported by the necessary ICNIRP certificate, coverage plots and supporting information.

2.3 The current application represents a 0.1 metre higher mast than previously approved at appeal by the Scottish Executive, seeks to install an additional transmission dish and alters the location of the proposed mast within the compound. Minor amendments to the location of the boundary of the compound and area of the compound of the telecommunications mast and ancillary equipment are proposed. The current application is required given that the planning permission for the appeal decision has not been implemented and therefore Vodafone cannot exercise their permitted development rights under

The Town and Country Planning (General Permitted Development) (Scotland) Order 1992, Part 20, Class 67.

### 3. CONSULTATIONS AND ISSUES RAISED

3.1 East Ayrshire Council's Environmental Health Division have no objections in principle.

***Noted.***

3.2 East Ayrshire Council's Outdoor Services Division have not commented on the application.

***Noted.***

3.3 Scotland Gas Networks have not commented on the application.

***Noted.***

3.4 Hurlford and Crookedholm Community Council have not responded to the proposal.

***Noted.***

### 4. REPRESENTATIONS

One letter of objection has been received in respect of the proposal on the following grounds, as summarised below:-

4.1 Concerns about the possible harmful effects to patients and residents within Kirklandside Hospital which is located within very close proximity.

***The applicants have submitted the necessary ICNIRP declaration to verify that the proposed installation will comply with the ICNIRP guidelines for public exposure to radiofrequency radiation, therefore health and safety concerns are not a material planning consideration in the assessment of this application. Furthermore this is reflected in the approach adopted by the Scottish Executive in determining the previous appeal allowed on the site, where health and safety concerns were dismissed as non material planning considerations.***

4.2 The future of the NHS land adjacent to the site is currently under review and it is considered that the proposed development would be prejudicial to any marketing strategy for disposal of this land.

***The future disposal and marketing of NHS land is not a material planning consideration.***

4.3 Given that the future of the adjacent NHS land is under review there can be no guarantee that the existing adjacent tree belt will be retained therefore impacting on the existing backdrop that provides screening for the development.

***It is noted that the existing tree belt adjacent to the application site is not on land within the ownership of the applicant and therefore the applicants have no control over the retention of these trees. However the applicant seeks provide separate planting in an area of some 600 sq metres, therefore providing screening of the mast and ground based equipment as those trees mature.***

4.4 The drawings indicate that the electrical power would be provided from the NHS site and shows the diversion of a water supply pipe which also passes across NHS land and NHS advise that they are not in a position to agree to any way leave agreement to allow connections to be made.

***The drawings indicate that the water pipe would be re-routed only if required and the applicants will require to comply with the requirements of Scottish Water in this regard. With regard to obtaining the necessary way leave agreements, this is a private legal matter between the applicant, service providers and landowners.***

## **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 (2003).

### Ayrshire Joint Structure Plan

5.2 There are no specific Structure Plan policies relevant to the assessment of the application.

### East Ayrshire Local Plan

5.3 Policy CS2 states that the Council will consider all telecommunications proposals in the light of their particular operational requirements within the framework provided by NPPG19. In all cases, care will be taken to ensure that all telecommunications developments are sensitively sited and the Council will assess each application against the following criteria:

- (i) the visual impact of the proposal on townscape and environment;
- (ii) the possibility of shared operational facilities; and
- (iii) the availability of suitable alternative sites.

The Council will require the immediate removal of all telecommunications installations which are operationally redundant and the restoration of sites to their original condition.

***It is not considered that the installation of the mast would have a significant detrimental impact on the amenity of the surrounding area, which reflects the conclusion reached by the Scottish Executive in determining the previous appeal on this site for a very similar proposal, subject to the requirement that trees are planted adjacent to the site. The current application includes the area of planting within the redline site and a condition can be imposed on any grant of planning consent to ensure that the planting secures a backdrop and screening of the mast in the interest of visual amenity.***

5.4 Policy CS3 states that in formulating their development proposals, telecommunications operators will be requested:-

- (i) to locate installations, wherever possible, at least 100m from continuously occupied premises in educational, health service or residential use; and
- (ii) to indicate on their submitted plans, areas where there would be the greatest intensity of emissions.

Telecommunications operators will be encouraged to share masts and other operational facilities with other operators.

***It should be noted that the content of Policy CS3 has been superseded by the provisions of NPPG 19: Radio Telecommunications and at the Development Services Committee of 23 October 2001 it was agreed to withdraw this Policy and to give weight to the NPPG and PAN. Under Paragraph 53 of the NPPG guidance, 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.***

In conclusion it is considered that the proposal is in accordance with the provisions of the Development Plan.

## 6. ASSESSMENT AGAINST MATERIAL CONSIDERATIONS

6.1 The principal material considerations relevant to the determination of the application are the consultation responses, the representation received, the planning history of the site, government guidance and the impact on the amenity of the area.

### Consultation Responses

6.2 The consultation responses do not indicate that the application should be refused.

### Representation

6.3 The representation received has been summarised in Section 4 of the Report and is not considered to be of such weight as to merit refusal of the application.

### Planning History

6.4 A planning application (02/0415/FL) for the installation of a 22.5m high telecommunications monopole and ancillary equipment on the site was refused by the Northern Area Local Planning Committee on 30 August 2002. The decision was appealed to the Scottish Ministers who allowed the appeal on 25 February 2003.

6.5 A planning application (03/0556/FL) for the deletion of condition 2b, requiring a scheme of tree planting imposed by the appeal decision, was refused by the Northern Area Local Planning Committee on 06 August 2004.

### Government Guidance

6.6 NPPG19 outlines Scottish Executive policy on telecommunications development. With regard to new ground base 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.

***The mast would be located within a predominantly rural area and would be partially screened to the north by existing trees. It is considered that the mast proposed is therefore acceptable within this area. Furthermore the appeal decision for the site allowed a similar proposal and concluded that any visual impact would be minimal and mitigated by the proposed planting adjacent to the proposed mast.***

6.7 Paragraph 53 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 (RF) radiation are controlled and regulated under the appropriate legislation by the DTI and the Radio Communications 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 above is reflected in the approach adopted by the Scottish Executive in determining the previous appeal allowed on the site, where health and safety concerns were dismissed as non material planning considerations.***

6.8 NPPG 19 requires that all applications for planning permissions 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 reassurances 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.

***The application has been accompanied by the necessary ICNIRP declaration.***

6.9 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. It offers a series of options in this respect.

***It is considered that the proposed development takes full account of the advice in PAN62 and consequently reduces the potential impact of the mast on the visual amenity of the surrounding area. Furthermore the Scottish Executive appeal decision for a very similar proposal concluded that any visual impact of the proposed installation could be mitigated through the provision of landscaping adjacent to the mast, which has been included in this application.***

#### Impact on the Amenity of the Area

6.10 As detailed above, it is considered that the proposed mast can be accommodated without imposing any significant detrimental impact on the amenity of the surrounding area.

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

7.1 Should the committee refuse to grant planning consent for the application, the applicant may appeal against the Council and given that the Scottish Executive granted planning permission for a very similar proposal on the site, it is possible that the applicants would seek payment of their costs by the Council.

## **8. CONCLUSIONS**

8.1 As indicated in the report the application is considered to be in accordance with the terms of the Development Plan. Therefore it should be approved unless material considerations indicate otherwise.

8.2 As per Section 6 of the report there are material considerations relevant to the application. With the exception of the representations, the material considerations do not indicate that the application should be refused and in respect of the representations it is considered that these are not of sufficient weight to merit the refusal of the application given the application of appropriate conditions.

## **9. RECOMMENDATION**

**9.1 It is recommended that the application be approved subject to the conditions indicated 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, the application will not require to be referred to the Development Services Committee as that would not be a significant departure from Council policy.

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

07 March 2006  
(GC/MMM)

FV/DVM

## LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices and Certificates.
3. Letter of Representation.
4. Consultation Responses.
5. Adopted East Ayrshire Local Plan (2003).
6. Planning Application (02/0415/FL).
7. Planning Application (03/0556/FL).
8. Planning Appeal (P/PPA/190/83).

Anyone wishing to inspect the above papers please contact Gillian Craig, Senior Planning Officer on 01563 576769.

***Implementation Officer: Dave Morris***

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

06/0121/FL

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Site of Proposal: West Mosside Farm  
Kirklandside  
KILMARNOCK KA1 5LH

Nature of Proposal: Proposed Erection of a 22.6 metre High  
Slimline Monopole With Equipment Housing  
Cabinet and Ancillary Development and  
Formation of Proposed Landscaping Area and  
Fencing

Name & Address of Applicant: Vodafone UK Ltd  
Vodafone House  
The Connection  
NEWBURY  
Berkshire RG14 2FN

Name & Address of Agent: Waldon Telecom  
Turnberry House  
175 West George Street  
GLASGOW G2 2LB

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DPOs Reference: GC/MMM

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

1. Prior to the commencement of any work on the development hereby approved details of the colour that the monopole mast is to be painted shall be submitted to and be approved in writing by the Planning Authority.

REASON To ensure that the colour of the mast and proposed planting are satisfactory in terms of visual amenity.

2. Before the monopole mast hereby approved is erected, the perimeter fence shall be erected, the ground shall be prepared for tree planting and the tree-planting shall be carried out. If within five years of planting, any tree dies, becomes diseased, is damaged or is removed it shall be replaced by a tree of the same size and species as that originally required to be planted.

REASON To ensure that the tree planting is carried out at the earliest opportunity and successfully established.

3. In the event that the telecommunications development hereby approved ceases to be used for the purposes which it is designed it shall be removed from the site and the site shall be reinstated to the satisfaction of the planning authority within two months of the date on which the use ceased. The proposed tree planting shall however be retained.

REASON The adverse effect of the development on its surroundings is only justified so long as there is a need for it to be in operation.

4. Construction works shall only take place during the hours of 08:00 am to 18:00 hours Monday to Friday and 08:00 am to 13:00 hours on Saturday. No works shall take place on a Sunday.

REASON In the interests of amenity.

#### NOTES TO APPLICANT

1. The developer shall make early contact with Scottish Water with regard to any requirements to re-route the water pipe.
2. The developer shall make early contact with Scotland Gas Networks with regard to any excavation works on or near to a gas main.
3. Prior to the commencement of development on site, the applicant should satisfy him/herself as to the suitability of the site for construction purposes.

**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.**