

EAST AYRSHIRE COUNCIL

NORTHERN AREA LOCAL PLANNING COMMITTEE: 15 JUNE 2001

**00/0833/FL: PROPOSED AMATEUR RADIO MAST
A T 36 GOATFOOT ROAD, GALSTON
BY MR I A McCARROLL**

EXECUTIVE SUMMARY SHEET

1. DEVELOPMENT DESCRIPTION

1.1 The application is retrospective and is an amateur radio mast at a height of 33 ft (10.06m). The mast is a wind up and tiltover type and consists of a heavy duty winch and square and round galvanised steel at the top section which is 3% inches (9cm) thick. At present there is a 3 element beam on top however the applicant has advised that now and again it is intended that there will be different antennas on top of the mast. The concrete below the ground at the base of the mast is 4 ft wide by 4 ft deep. The mast is located 10 ft (3m) from the house and 4 ft 6ins (1.4m) from the boundary fence.

2. RECOMMENDATION

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

3. SUMMARY OF ANALYSIS

3.1 Given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 and the absence of any specifically relevant policies in the Development Plan it would be appropriate to determine the application having regard to the other material considerations.

3.2 As indicated in Section 6 of the report there are other material considerations relevant to this application.

3.3 Having taken account of current Government advice, the objections received and resultant situation on site in terms of visual and residential amenity I it is considered that the proposal cannot be supported.

**Alan Neish
Head of Planning and Building Control**

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 and Building Control

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 because it is subject to objections and is recommended for refusal.

2. APPLICATION DETAILS

2.1 Site Description: The site is located to the west of Galston within a residential area. The site is north of St Sophia's Primary School. The mast is located in the rear garden of an end terraced property which lies at right angles to the garden of No 38 Goatfoot Road.

2.2 Proposed Development: The application is retrospective and is an amateur radio mast at a height of 33 ft (10.06m). The mast is a wind up and tiltover type and consists of a heavy duty winch and square and round galvanised steel at the top section which is 3/8 inches (9cm) thick. At present there is a 3 element beam on top however the applicant has advised that now and again it is intended that there will be different antennas on top of the mast. The concrete below the ground at the base of the mast is 4 ft wide by 4 ft deep. The mast is located 10 ft (3m) from the house and 4 ft 6ins (1.4m) from the boundary fence.

3. CONSULTATIONS AND ISSUES RAISED

3.1 The Department of Community Services, Environmental Health and Waste Management Section have confirmed that they have no objections to the proposal being approved. However, the Department does point out that complaints may be received by their Service in the future due to wind noise, and that in periods of windy conditions, the mast should be kept in its fully "wound down" position. Licences for this type of equipment may be required to be obtained from the Department of Trade and Industry.

Noted. A condition requiring that the mast be fully wound down during windy conditions could be attached to any grant of planning permission, although there may be difficulties in determining at what point it was sufficiently windy to merit lowering the mast. The applicant has a licence from the Department of Trade and Industry.

3.2 The Radiocommunications Agency have provided the following consultation response:

"Amateur radio operators are required to have a licence from this Agency and their operations are governed by the conditions attached to that licence. These conditions seek to minimise the risk of interference to domestic television and radio. However, in licensing a high powered transmitter to operate in a domestic environment, there will always be a risk that some interference will be caused.

Much existing domestic equipment lacks adequate immunity to unwanted signals. This problem has been addressed with the introduction of an EC Directive on electromagnetic compatibility, however it will be many years before this has a real effect in the domestic environment. The Agency therefore has a set procedure for handling complaints of interference caused by amateurs. We asked the amateur to co-operate with neighbours and to seek a cure by, for example, fitting filters to the affected equipment or by varying power output or operating times. The amateur did this by staying off a specific band and having a member of the Radio Society of Great Britain's interference group fit filters to his set and also to the neighbours' equipment who had been complaining. A visit by myself after this was done confirmed that the worst of the interference had been cured and that the amateur was working on the various bands again.

If unacceptable interference remains, despite the efforts of the amateur, the Agency has the power to vary the licence of individual amateurs to remove or reduce interference to acceptable levels".

Following the fitting of filters to a neighbouring property it would appear that the problem of interference has still not been resolved. It is considered that as a result of continual interference, the amenity of the neighbouring residential properties is being detrimentally affected.

3.3 Galston Community Council object to the planning application for the following reasons:-

- (i) it is a visual eyesore to neighbours; and
- (ii) it is interfering with the neighbours' computers and televisions.

The mast is a significant structure within a residential area and is considered to be unduly prominent. With regard to radio interference see response to para 3.2 above.

4. REPRESENTATIONS

(5 letters of objection were received including 1 from Galston Community Council and a petition with 10 signatories).

4.1 There are no objections to people having a hobby but when it starts to interfere with the life and enjoyment of others there is a need to object. The mast causes interference on neighbours' telephones, televisions/videos and in many cases computers, alarm clocks and hi-fi's. This may not seem much of a problem but when it is day and night it becomes extremely annoying. At times you are unable to watch television for the interference and it has also disturbed people early in the morning and late at night while they are trying to sleep.

Following the fitting of filters to a neighbouring property it would appear that the problem of interference has still not been resolved. It is considered that as a result of continual interference, the amenity of the neighbouring residential properties is being detrimentally affected.

4.2 At 33 ft the mast is very much an eyesore and certainly does not look particularly safe. Garden fences in the area have blown down in the recent past as it is an extremely windy area. In addition, the mast overhangs into the adjacent property.

The Department of Community Services also noted concerns regarding potential wind noise. A condition could be attached to any grant of planning permission requiring that the mast be fully wound down during windy conditions, but with the reservation expressed in 3.1 above. With regard to the issue of the mast overhanging adjacent property, this is a private legal issue and is not a material planning consideration.

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 Ayrshire Joint Structure Plan and the Adopted Ayr County Development Plan (1953).

5.2 The Adopted Ayr County Development Plan is now considerably out of date. Given the age of this plan, its relevance to the application is negligible.

6. ASSESSMENT AGAINST OTHER MATERIAL CONSIDERATIONS

6.1 The other principle material considerations relevant to the determination of this application are the East Ayrshire Local Plan (Finalised Version with Modifications) (EALP), Circular 25/1985 "Telecommunications Development" and the objections received.

6.2 The Adopted Ayr County Development Plan is considerably out of date and therefore it is considered appropriate that greater weight should be attached to more recent expressions of policy. The Council has agreed that the EALP should be considered a prime material consideration.

The relevant policy within the EALP is Policy CS2. This policy states that the Council will consider all telecommunication proposals in the light of their particular operational requirements within the framework provided by Circular 25/1985. In all cases, care will be taken to ensure that all telecommunications developments are sensitively sited. The reason for this policy is to ensure that telecommunications development have minimal environmental impact. In this case, the visual impact is not acceptable by reason of the height of the mast.

6.3 SDD Circular 25/1985 "Telecommunications Development" contains advice on the scope and exercise of planning controls over telecommunications and similar development.

"Radio Interference-

All users of radio equipment are required by the terms of wireless telegraphy legislation to avoid creating undue radio interference with other radio users, including domestic television sets, and their equipment must be designed to minimise it. In most situations, therefore, questions of potential interference are of no relevance to the determination of planning applications for the masts or antennas needed to operate a transmitter. Other controls should be assumed to deal with any radio interference problems. But in some cases significant interference can arise lawfully and unavoidably for various technical reasons. The Secretary of State takes the view that where there is firm evidence that significant and irremediable radio interference with other electrical equipment of any kind is a probability, or a certainty, or is already happening, as a consequence of any development, that is a material planning consideration, to be weighed with all other considerations in the determination of an

application. Planning Authorities should not, however, attempt to explore, seek out or anticipate potential problems of radio interference, or be influenced in their approach by the mere possibility that such interference might arise. Only if there is already clear evidence that significant radio interference will arise, or will probably arise, and that no practical remedy is available, will there be any justification for taking it into account in reaching a decision. Significant interference would be any which materially impaired the normal use, effectiveness, or enjoyment of electrical apparatus in other premises on a regular or continuing basis".

It is clear from this extract that the current radio interference experienced by neighbouring properties is a material planning consideration which should be taken into account in determination of this planning application.

6.4 The objections received relate to interference with electrical equipment and also the visual impact of the mast.

It is considered that the issue of interference is a material planning consideration. On the basis of the information submitted by both the objectors and from the Radiocommunications Agency it is clear that there is a level of interference which is affecting the amenity of neighbouring properties. With regard to the visual impact it is considered that the current structure is visually intrusive within this residential area.

7. FINANCIAL AND LEGAL IMPLICATIONS

7.1 There are no financial or legal implications for the Council in determining this application aside from the requirement to instigate enforcement action should the applicants not remove the structure in the event of planning permission being refused.

8. CONCLUSION

8.1 Given the terms of Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 and the absence of any specifically relevant policies in the Development Plan it would be appropriate to determine the application having regard to the other material considerations.

8.2 As indicated in Section 6 above there are other material considerations relevant to this application.

8.3 Having taken account of current Government advice, the objections received and resultant situation on site in terms of visual and residential amenity, it is considered that the proposal cannot be supported.

9. RECOMMENDATION

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

Alan Neish
Head of Planning and Building Control

04 June 2001

(YN/MMM)

FV/DVM

LIST OF BACKGROUND PAPERS

1. Application Form and Plans.
2. Statutory Notices/Certificates.
3. Consultation Replies.
4. Letters of Objection.
5. Amendments to the Application.
6. Correspondence from/to the Applicant.
7. Specialist Advice/Reports.
8. Ayr County Development Plan, Irvine Valley Local Plan/Finalised Kilmarnock and Loudoun District Plan/East Ayrshire Council Local Plan (Finalised Version as Modified).
9. Circular 25/1985 "Telecommunications Development".

Anyone wishing to inspect the above papers please contact Yvonne Nisbet on 01563 576771.

Implementation Officer: Dave Morris

EAST AYRSHIRE COUNCIL

TOWN & COUNTRY PLANNING (SCOTLAND) ACT 1997

00/0833/FL

Site of Proposal: 36 Goatfoot Road
GALSTON

Nature of Proposal: Proposed Amateur Radio Mast

Name & Address of Applicant: I A McCarroll
36 Goatfoot Road
GALSTON KA4 8BJ

Name & Address of Agent: .

DPOs Reference: YN/MMM

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

1. The proposed development would be visually intrusive within the residential area by virtue of the scale of the development in the proposed location and in this regard would be contrary to Policy CS2 of the East Ayrshire Local Plan (Finalised Version with Modifications).
2. The proposed development would adversely affect the residential amenity of the area by reason of radio interference with regard to the operation of domestic appliances.

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VIEWING PLEASE CONTACT (01563) 576790.**

AGENDA