

Planning and Environmental Appeals Division
Prior Approval Appeal Decision Notice

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Decision by Trevor A Croft, a Reporter appointed by the Scottish Ministers

- Prior Approval appeal reference: PAC-120-2001
- Site address: Land adjacent to Victoria Street, Monifieth, Dundee, DD5 4RB
- Appeal by EE Ltd and Hutchinson 3G UK Ltd against the decision by Angus Council
- Application for prior approval 20/00228/PRIORN dated 23 March 2020 refused by notice dated 22 May 2020
- The development proposed: Installation of 20 metres high monopole mast incorporating antennas, dishes and ancillary equipment cabinets
- Application drawings: see schedule at end of notice
- Date of site visit by Reporter: 6 August 2020

Date of appeal decision: 15 October 2020

Decision

I allow the appeal and approve the siting and appearance of the development. Attention is drawn to the advisory note at the end of the notice.

Reasoning

1. Part 20 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (as amended) provides planning permission for certain types of development by electronic communications code operators. Class 67 of that order allows for construction of new ground based apparatus including new masts which do not exceed 25 metres in height and subject to a number of specified criteria. The criteria include a requirement for an operator to apply to the planning authority to establish whether prior approval is required. The principle of the proposed development is therefore established.
2. The procedure allows only for the consideration of the acceptability of the siting and appearance of the proposed development. The council refused prior approval on the basis that the siting and appearance of the proposed apparatus would not minimise the impact on visual amenity or on the character and appearance of the surrounding area.
3. Section 25 of the Town and Country Planning (Scotland) Act 1997 does not apply to applications for prior approval, so the development plan does not have primacy in decision making. Relevant policies may however be useful in providing guidance on the assessment of the impact of the siting and appearance of the mast, and thus be a material consideration. In its decision notice the council quoted policy TC13 Digital Connectivity & Telecommunications Infrastructure of the Angus Local Development Plan 2016 and its advice note 5/2018 Telecommunication Developments.



4. Taking these points into account the main issue in this appeal is the acceptability of the proposed siting and appearance of the mast and its associated infrastructure.
5. The appeal site is located on the east side of Victoria Street, which is an important local road linking the centre of Monifieth at its southern end with the main A92 Dundee to Arbroath Road which runs north of the settlement. Some 1.5 kilometres in length, the site is some 0.6 kilometres from the northern end of the road. It is located adjacent to the footway on a semi-circular grass covered area the lies within a bus-turning area. There is a bus shelter and stop sign at the southern end of the turning area. A bus stop sign and street light shown on drawing '150 Existing elevation A' as being located on the west side of the road do not exist. The proposed mast would replace one dismantled following a 'Notice to Quit' from the nearby former Ashludie Hospital site, set back on the east side of Victoria Street.
6. From my site inspection Victoria Street appears as a relatively busy road, including bus services. It is predominantly residential throughout its length. In the vicinity of the appeal site it has a sylvan character with significant tree and hedge cover along both sides of the road. The immediate surroundings of the site have a relatively open character due to the open ground formed by the bus turning area.
7. From drawing '265 Max configuration elevation' the proposed mast, at 20 metres high, would be five metres higher than the nearby mature trees, shown clearly on the drawing. Whilst from a distance to the north and south it would be relatively well concealed by trees lining the road, views from close to the site would not benefit from this because of the open ground of the bus turning area. Its location against the footway, with open ground behind when seen from the road or west side footway, would be prominent with no immediate backcloth. The ancillary cabinets, located either side of the mast, would also be prominent and give an impression of clutter.
8. There are houses along both sides of the road but those nearby the site on the east side are set back behind a stone wall that bounds the turning area. Those on the west side are largely behind screening hedges. The orientation of the houses and protective trees and other vegetation would largely prevent direct views of the mast. Although residential amenity would not be harmed to an extent that was significant, the wider visual amenity of passers-by on the road would be adversely affected.
9. Local development Plan policy TC13 supports telecommunications development subject to criteria, the relevant ones here being to minimise the impact on visual amenity, character and appearance of the surrounding area, and to demonstrate that the possibility of erecting apparatus on an existing building, mast or other structure has been explored. Advice note 5/2018 prefers telecoms installation to be within industrial areas, on brownfield sites or in town centres, away from residential property.
10. The original application was supported by information relating to alternative sites that the then applicant considered and discounted, as well as opportunities that exist for attaching the equipment to existing buildings or structures. The council does not consider that the information represents a thorough analysis of alternative sites and does not include sites closer to the chosen site which could have a significantly reduced impact on visual

amenity and the character and appearance of the area. It says the information submitted does not provide evidence that serious and diligent consideration has been given to other less sensitive sites or opportunities for attaching the equipment to existing buildings or structures. The council has not provided any information about other potential alternative sites.

11. National Planning Framework 3 emphasises the important role planning has to play in strengthening digital communications capacity and coverage across Scotland. Scottish Planning Policy states at paragraph 293 that the planning system should support development that helps deliver the Scottish Government's commitment to world-class digital connectivity. This includes the need for networks to evolve as well as keep environmental impacts to a minimum. This evolution provides for the rolling out of the new 5G network across the whole of Scotland and I am satisfied there is strong policy support in principle for the proposed mast at national level.

12. The council received 59 representations objecting to the proposal and two in support. Most of these have been dealt with above. Matters relating to loss of view and house values are not relevant to my determination. Emissions of radio frequency affecting health are controlled and regulated under other legislation. Paragraph 300 of Scottish Planning Policy says that it is not necessary for planning authorities to treat radio frequency radiation as a material consideration. In this case the appellant has submitted a certificate of compliance with the International Commission on Non-Ionizing Radiation Protection standards and no further consideration is necessary.

13. The council has not asked for any conditions to be imposed in the event of the appeal being allowed. I do not consider any to be necessary.

14. Drawing all these matters together, although the proposed mast would have an adverse impact on general visual amenity this would mainly affect passers-by on Victoria Street and therefore relatively fleeting. I do not consider the impact to be sufficiently adverse as to justify dismissing the appeal, taking into account substantial support from national policies as well as the local development plan. Any impact on residential amenity would similarly not justify dismissal.

15. I am satisfied that alternative sites have been considered and none more suitable has been found. No other alternative sites have been drawn to my attention.

16. Overall I find the benefits of the proposal outweigh the adverse impact on local visual amenity. I therefore give approval, for the reasons set out above, for the siting and appearance of the development. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

Trevor A Croft

Reporter

Advisory note

1. **The duration of this prior approval:** This prior approval will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (see Class 23(g) of Part 20 of Schedule 1 to the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended by the Town and Country Planning (General Permitted Development) (Scotland) Amendment Order 2017).

Schedule of drawings

All drawings have master drawing No. 1568451_ANG094_79652_M001

002 SITE LOCATION PLAN

003 ACCESS PLAN

005 CHERRY PICKER AND CRANE LOCATION

100 EXISTING SITE PLAN

150 EXISTING ELEVATION A

215 MAX CONFIGURATION SITE PLAN

265 MAX CONFIGURATION ELEVATION

304 MAX CONFIGURATION ANTENNA SCHEDULE AND LINE CONFIGURATION

305 EQUIPMENT SCHEDULE AND SUPPORT STRUCTURE DETAILS