

SCOTTISH BORDERS COUNCIL

PLANNING AND BUILDING STANDARDS COMMITTEE

27 JUNE 2016

APPLICATION FOR PLANNING PERMISSION

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| ITEM: | REFERENCE NUMBER: 16/00413/FUL |
| OFFICER: | Mr A Evans |
| WARD: | Denholm and District |
| PROPOSAL: | Installation of 15m monopole including antennas, ground-based cabinets and fence enclosure |
| SITE: | Land South Of Deveron Cottage, The Loaning, Denholm |
| APPLICANT: | Cornerstone Telecommunications Infrastructure Limited (CTIL) |
| AGENT: | The Harlequin Group |

SITE DESCRIPTION

The application site is sloping scrub land located next to a corner of agricultural field on the southern side of Denholm. The site is located at the South East of existing dwellings at "The Loaning". The site is located beyond the Denholm development boundary. The site is accessed via The Loaning, which as it progresses towards the site from the village, diminishes in standard from a public road down to a track/bridleway. This route is part of the Border Abbeys Way, and is a Core Path. The nearest dwellings are the existing houses at The Loaning, the nearest of which is located just over 130m to the North West (scaled from OS).

PROPOSED DEVELOPMENT

Full planning permission is sought for the erection of a single 15m high telecommunication monopole. The proposed installation would comprise:

- The 15m high tower, mounted on which would be:
 - 3no. new antennae on a headframe at the top of the tower
 - 2no. transmission dishes (300mm in diameter)
- A level concrete base and low (500mm) retaining wall would be formed at the foot of the tower.
 - On this base, in addition to the pole, would be located equipment cabinets.
 - The base (and monopole) would be enclosed by 1.2m high stock proof fencing.

The existing field gate and pedestrian gate adjoining the site would be retained.

The applicant is CTIL (Cornerstone Telecommunications Infrastructure Limited). This company creates and manages a single telecom grid previously belonging to both Vodafone and Telefonica (branded as O2).

PLANNING HISTORY

None.

CONSULTATION RESPONSES:

Scottish Borders Council Consultees

Roads Planning Service:

No objections in principle to this proposal. The public Right of Way (BR135) which provides access to this site must be kept open during the construction period for this proposal. The developer should liaise with the Council's Access Team to ensure the Right of Way is protected during the construction period and no adverse damage is inflicted on the path as a result of construction vehicles accessing the site.

Access Officer:

No objection to this proposal. However, the Borders Abbeys Way (Core Path 1) lies adjacent to this site and should remain open to the public and free from obstruction at all times. The track should remain protected during the works but if any damage is done to the track then it should be reinstated to the same or an improved condition.

Statutory Consultees

Denholm and District Community Council:

Report the following observations from comments made by residents at the Community Council meeting held on 18th May:

1. Proximity of this proposed development is very close to local residents.
2. Closeness of the mast to the adjoining Borders Abbey Way.
3. The location is very visible from within the conservation village of Denholm.
4. Health concerns by local residents after reading available data re the siting of this type of antenna near to housing.
5. The track and right of way being damaged due to vehicular traffic for construction and maintenance.
6. No alternative sites were proposed by the developer at the time of the planning request, only unsuitable ones when pressed for information.

Although the CC acknowledges the benefits of improved telephone coverage, the siting of this mast at the proposed site is causing residents to have many concerns.

REPRESENTATION SUMMARY

This application did not require any publicity, there being no notifiable premises within 20m of the site.

At the time of the finalisation of this report, 19 contributions had been made to the application. This comprised 2 representations, and 17 Objections to the application. Furthermore, the applicant has also submitted correspondence supporting the application.

Objections

The objections made and issues raised therein can be viewed in their entirety on the public access website. Whilst there is some overlap between topics and issues, the objections raised can be briefly and broadly summarised as follows:

- Proximity to housing
 - The proposed mast is too close to existing buildings, and to housing on The Loaning, and the School.
- Health Impacts
 - Technical, scientific and legal advice cited by objectors confirms health impact concerns from this technology.
 - Negative environmental and psychological effect on people.
 - The NRPB guidelines are insufficient.
 - The Local Authority is unconcerned about placing such a mast within 100 metres from occupied housing.
- Impact on Amenity
 - Loss of personal amenity is a valid planning consideration.
 - Genuine public perception of danger is a valid planning consideration.
 - Concerns, even when not based on any logic or scientific proof, should be accepted by the Planning Authority as a material consideration.
- Access Impacts / Relationship to Border Abbeys Way and Impacts on Tourism
 - Proposals will have a detrimental effect visually for tourism.
 - The mast will be seen from several beauty spots such as Minto Hills, Fatlips Castle and the Teviot valley.
 - Access up to the site would be using the single track road which serves the six houses in the cul-de-sac at The Loaning, which is not suitable.
 - This access has trouble in the winter, with run off causing flooding.
 - Scottish Borders Council promotes the Borders Abbeys Way, complimenting Denholm as being picturesque. The erection of the proposed mast will put blight on the landscape.
 - Local hotels and restaurants will see a decline in Borders Abbey Way walkers who want to avoid the unsightly area on the Jedburgh to Hawick section.
- Visual Impact
 - The height and location of the mast is in a sensitive residential area too close to houses.
 - Rejection by the operator of the alternative sites must not be allowed on the grounds of economics and competition.
 - Sharing an existing mast should take place instead.

- Proximity to and adverse impact upon Denholm Village and Conservation Area.
 - Denholm is a conservation village visited by many people due to its beauty and location, the area is frequently used by walkers and it is contended the mast will have a detrimental effect visually.
 - The monopole will be seen from conservation area within Denholm.
 - Whilst in the village the proposed monopole would not be preserving Denholm's distinct appearance as stated in the Denholm Conservation Area Statement.

- Alternative Siting
 - A lower impact siting should take place.
 - The monopole would be better situated higher up the hill where there is woodland, and to the west where the line of houses is further away from it.
 - A mast could be situated significantly further away from Denholm.
 - An alternative location was proposed within objections, at grid reference NT56900 17688, with access from grid reference NT56735 17760. (Adjacent to "Little Rulwood" on the Dene Road).
 - Officers of Scottish Borders Council should recommend an alternative site to Members of the Council which will be well away from homes within Denholm.

All of the objections received can be viewed in full on the Public Access website.

Agent Supporting Submissions

The agent for the application provided written response to matters raised, which can also be viewed on the website, and can also be summarised as follows:

- Proximity to Housing
 - The mast will be located some 140m from the edge of the village and the grounds of the nearest house.
 - The main siting determinant is that the mast can provide coverage to the intended recipients. In this instance it is for the inhabitants, businesses and visitors to Denholm, although will also cover a wider area.
 - A willing landowner, ground conditions, access, proximity to power, planning considerations all need to also be taken into account. In this instance, to be able to provide 2G/3G/4G coverage across the village and over a wider area, this location on elevated land overlooking the village was considered to be the best option - it 'scores' highly on the determinants above.
 - The location is set on a rising hillside with some tall mature trees close by which help to integrate the mast into the landscape.
 - Mobile phone masts have now been a common feature across the UK for decades and provide vital communications links especially in rural areas however in terms of their proximity to housing that 140m is certainly not uncommon in rural areas such as Denholm.
 - In urban areas masts are located far closer to residential properties and often on the roofs of multi-storey buildings.

- OFCOM's site finder website indicates the spread of phone masts and also proximity to housing: <http://www.sitefinder.ofcom.org.uk/search>.
 - Often these installations can be 10m-15m from residential properties i.e. closer than this proposed mast by a factor of x10.
- Health Impacts
 - Government policy sets out any health impacts and concern should not be addressed through the planning system.
 - An ICNIRP Certificate accompanied this application.
 - SPP states that it is not necessary for planning authorities to treat radiofrequency radiation as a material consideration.
 - OFCOM Audits on particular communications installation to ensure ICNIRP compliance. These invariably come in thousands of times below the ICNIRP guidelines.
 - Radio waves used are not 'microwave'. They are radio waves appearing on a quite separate part of the radio spectrum.
 - Microwave links are sometimes used to link a site into the larger network (in the absence of fibre) but these links are via line-of-sight and the public would have no exposure to them.
- Access Road
 - The access road can be accessed by a 4-wheel drive vehicle easily.
 - The installation is small scale and requires little in the way of plant, machinery or activity. Construction, using heavy vehicles will be finished in a matter of days.
 - Vehicles will not need to 'come and go' over an extended period of time. This should result in no damage to the existing track.
 - Ongoing maintenance is very limited and would only be required once or twice per year and would not involve heavy vehicles.
 - The mast will only visible in short range views from the 'Way'. Whilst it may also be visible in some long range views, its size (and colour) set against the landscape would mean that it would be difficult to identify.
- Proximity to village (Conservation Area).
 - The mast will be located 400m from the nearest boundary of the conservation area.
 - Other locations considered included potential street pole locations within Denholm, where the applicant has statutory rights to locate apparatus, however it is considered these would have far greater impact than the pole currently being proposed.

DEVELOPMENT PLAN POLICIES:

Proposed Local Development Plan 2016

- PMD2 Quality Standards for New Development
- HD3 Protection of Residential Amenity
- EP5 Local Landscape Designations
- EP9 Conservation Areas
- IS15 Radio Telecommunications

OTHER PLANNING CONSIDERATIONS

National Policy and Advice

Scottish Planning Policy
PAN 62 Radio Telecommunications 2001

Supplementary Planning Guidance

SPG – Local Landscape Designations

KEY PLANNING ISSUES

The main determining issues with this application are compliance with Development Plan Policies on installation of radio telecommunications equipment and consideration of impacts on adjoining residential properties, and landscape designations.

ASSESSMENT OF APPLICATION

Policy Principle

Policy IS15 of the Local Development Plan sets out that such telecommunications proposals will be assessed against siting and design considerations.

Criterion A requires that such equipment should be positioned and designed sensitively to avoid unacceptable effects on the natural and built environment, including areas of landscape importance and areas of ecological interest.

Criterion B requires developers must demonstrate that they have considered all options for minimising the impact of development.

The single monopole mast proposed is a response to the lack of coverage in the village. It is visually of lesser impact than a lattice type tower. The aim of this application is to provide enhanced mobile coverage, of benefit to the whole of Denholm, and the surrounding area more generally. This is consistent with national policy aimed at improving connectivity across Scotland.

Consideration of Alternative Sites

Criterion B of Policy IS15 of the Local Development Plan requires developers must demonstrate that they have considered all options for minimising the impact of development.

Opponents of the application have suggested that there are alternative locations where this proposal could be sited. It is correct that there are alternatives but there is a limit to the extent to which these alternatives can be used as a means to resist a proposal. The policy requires a demonstration that other sites have been considered. That does not mean that a proposal can be rejected merely because these other sites exist; an assessment of the merits of the proposal for which permission is sought is still the primary test for the suitability of the development.

In support of the planning application, the agent has submitted an "industry standard site specific assessment", which includes details of the consideration of alternative locations for the proposed mast that they carried out (This is available for examination on the planning pages of the Council's website).

The assessment document sets out that the agent gave consideration to alternative locations at Corrieston, Hassendean Bank, Farmland to the East of the Village, Honeyburn Farm, and at Denholm Mill. For various technical, and visual impact planning reasons these sites were discounted. This is detailed in the agent's assessment. The agent's submissions also set out that a potential siting within the Conservation Area on a "Streetpole" type installation was also considered and discounted.

It should be noted that the application site benefits from a topographical and tree backdrop, which minimises the overall visual impact of the monopole.

An alternative site was suggested within objections, at grid reference NT56900 17688. This alternative site would have Access from grid reference NT56735 17760. (Adjacent to "Little Rulwood" on the Dene Road).

It should be noted that this site suggested by objectors is in the approximate position of the "Corrieston" site that was discounted by the agent. The site selection details lodged by the agent sets out that the "Corrieston" site was discounted because of technical difficulties, and the agent considered that it would not provide as good coverage to Denholm as the chosen option.

With any development proposal, there is always an alternative site. While that will have a bearing on site selection and, to a lesser extent, the suitability of a proposal in planning terms, an otherwise acceptable site cannot be rejected because other sites that might be deemed more suitable are available. Members must therefore consider the suitability of the proposal for which permission is sought and not whether better sites exist.

Health

Objections have been received on the grounds of adverse impacts on health arising from the proposed telecoms equipment and its radio emissions. Objections have also been made highlighting perceived fear of risk to health from the mobile telecommunications installation.

Policy IS15 (Radio Telecommunications) of the LDP is quite clear that health and safety considerations are not matters for the planning system and this is derived from national planning policy, contained within planning policy which state, in paragraph 300, that:

"Planning authorities should not question the need for the service to be provided nor seek to prevent competition between operators. The planning system should not be used to secure objectives that are more properly achieved under other legislation. Emissions of radio frequency radiation are controlled and regulated under other legislation and it is therefore not necessary for planning authorities to treat radiofrequency radiation as a material consideration."

Accordingly, it is not for the planning process to take concerns over radiation into consideration in determining planning applications.

Applicants are required to submit of a "Declaration of Conformity with ICNIRP Public Exposure Guidelines" – which has been submitted with the application. The current application is accompanied by an ICNIRP (International Commission on Non-Ionising Radiation Protection) certificate, which relates to the output of the equipment

proposed to be sited here. The ICNIRP Declaration certifies that the site is designed to be in full compliance with the requirements of the radio frequency (RF) guidelines of the ICNIRP for public exposure as expressed in the EU Council recommendation of July 1999.

There are many examples, particularly in more urban settings, of masts in closer proximity to other properties than is the case here.

Conservation and Built Heritage

Policy EP9 of the LDP seeks to protect Conservation Areas from inappropriate development.

Objectors have cited that the site is in proximity to the "Conservation Village". Denholm does indeed have a Conservation Area. However the site is not within the Conservation Area, the outer boundary of which is located just over 380m to the North West of the site.

The proposed development is not considered to have any significant impact on the Character or appearance of the wider Denholm Conservation Area at this distance, and in this proposed relationship between the Conservation Area and the application site. The mast may be visible from some parts of the Conservation Area, but only distantly and not prominently given the backdrop. In most locations, however, including the village green, the mast would not be visible. Given the distance involved, there is not considered to be an unacceptable impact upon the wider Denholm Conservation Area.

There is considered to be no conflict with policy EP9 (Conservation Areas) of the LDP.

Landscape and Visual Impact

Scottish Planning Policy directs that there is to be "*careful consideration of development and the impacts that may result on the landscape*". The Council has adopted Supplementary Planning Guidance on Local Landscape Designations, and on Landscape and Development. The site is located within the Teviot Valleys Special Landscape Area. Care therefore has to be taken in the micro-siting of any large structures.

Section 7 of the SPG on Local Landscape Designations sets out Supplementary Planning Policies. Policy B of the SPG is relevant here, and sets out that "*The Council will use the Statements of Importance attached to each of the proposed Special Landscape Areas (SLAs) as a material consideration in the determination of planning applications*"

The management recommendations for the Teviot Valleys Special Landscape Area (SLA) set out that the authority should "*Consider the effects of development on hilltops, such as masts or wind farms, which may be visible within the valleys*"

Policy EP5 of the Local Development Plan on Special Landscape Areas sets out that in assessing proposals for development that may affect SLAs, the Council will seek to safeguard landscape quality and will have particular regard to the landscape impact of the proposed development, including the visual impact. Proposals that have a significant adverse impact will only be permitted where the landscape impact

is clearly outweighed by the social or economic benefits of national or local importance.

The location chosen in the current application benefits from a partial backdrop provided by the trees and rising landform from certain views, particularly the west and north. It also relates the development to the built environment it is primarily intended to serve. An alternative site away from this backdrop of trees and topography would appear more isolated and raise issues in terms of greater visual and landscape impact. The scale and colouring of the proposal are such that it would not appear prominent in longer range views.

An application site being located within an SLA would not necessarily preclude or prevent development from occurring. Indeed, it should be noted that the SLA covers all land around the Denholm Settlement boundary.

It is considered that the proposed site represents an acceptable landscape setting for the telecommunications installation. The proposed location is not considered incongruous and the presence of telecommunications installations in the countryside, on the edge of settlements and indeed within them is not unusual.

Trees, Woodland and Hedgerows

Policy EP13 of the Scottish Borders Council Local Development Plan (2016) on Trees Woodlands and Hedgerows sets out that the Council will give protection to the woodland resource.

Overgrown vegetated scrub is located on the sloping land to the immediate north west of the site. It is proposed to fell two existing 3m high Hawthorn trees in the corner of the site. These are not significant specimens, and their loss poses no issue or policy conflict. This has been confirmed verbally by the Council Landscape Architect.

To the north east of the site is located the footpath and track leading to the site, with a much more significant mature Ash tree located on the far side of the access gates to the neighbouring field. This mature 18m high ash tree to the west of the site is located 9.5m (from trunk) from the nearest part of the retaining wall on the site, on the far side of the field access. This mature tree is partially located at a higher topographic level than the application site and will remain the principal visual focal point in the vicinity of the application site. BS 5837 Trees in relation to construction is relevant here.

The Landscape Architect was informally consulted on the proposals and has confirmed that he is content with the relationship to the remaining trees (in particular, the mature Ash which is nearest), and content with the proposed Hawthorn tree removals. It would be prudent for the retained mature tree to be protected by means of a protective fence for the duration of construction works on the site. A suitable wording for a planning condition is set out at the end of this report.

Subject to appropriate protection being provided to this Ash tree during construction, it is considered that no unacceptable impact will arise. It is appropriate to require a protective fence to BS 5837 to be provided for the duration of construction works.

This impact on surrounding trees and shrubbery is considered acceptable. The proposals are considered acceptable when assessed in terms of Policy EP13 of the

LDP, and in terms of the adopted supplementary planning guidance on Trees and Development.

Access and Tourism

Policy IS5 of the Local Development plan seeks to protect Access Routes.

The Community Council raised the proximity to the Border Abbeys Way in its representation. Objection has also been received highlighting the perceived adverse impacts that the proposals would have on this adjoining access Route. The Borders Abbey way is a long distance circular route joining several Borders towns.

The Council Access Officer was consulted on the application. It is confirmed that the proposals are not objected to so long as the right of way is kept open. This will be ensured by planning condition.

The notion advanced in objections that a single monopole installation in this proposed location would result in a significant adverse impact on tourism within the village is not one to which significant weight can be attached to. Along its length the Borders Abbey Way, in addition to navigating through Special Landscape Areas with scenic views, also enters and exists several Borders towns. The route is characterised by a variety of landscapes, including urban. Along the route, there are a variety of masts and other structures, including pylons and windfarms, as well as the Selkirk and Ashkirk transmitters, which are visible in the landscape. There are other examples of masts close to rights of way, including the Borders Abbeys Way, as is the case at Todlaw near Jedburgh. It would therefore be difficult to conclude that a single monopole would affect the enjoyment of the route to the extent that it should be refused permission, however close to the route itself it might be. Furthermore, it is considered that rather than being a hindrance upon the local tourist industry, the resultant improvement in mobile telecommunications would if anything, add to users' experience of the route.

Subject to the noted planning condition requiring this route to stay open and free from obstruction during the construction of the pole, the proposals can be considered to comply with policy IS5 of the LDP. A requirement to upgrade or enhance the surface of the path is not considered justifiable in this case.

Residential Amenity Impact

Policy HD3 of the Local Development plan seeks to protect residential amenity.

The Council has adopted Supplementary Planning Guidance on Householder Development which sets out standards in terms of privacy and amenity. In this case, the site proposed causes no conflict with these SPG standards on these grounds or in visual terms, given the 140m distance to and relationship with the nearest dwelling in The Loaning. There is considered to be no conflict with either policy HD3, or with the standards set out in the adopted SPG on Householder Development.

CONCLUSION

Subject to the conditions and Applicant Informative listed below, the development is considered in compliance with Development Plan Policies on telecommunication proposals in a Special Landscape Areas with acceptable impacts on adjoining residential properties, and controllable impacts on neighbouring trees, and continuing public access.

RECOMMENDATION BY CHIEF PLANNING OFFICER:

I recommend the application is approved subject to the following conditions

1. The existing mature ash tree to the east of the site (Highlighted in green on approved drawing 201) is to be protected during construction of the mast by a temporary fence, the full details of which are to be submitted to and approved in writing by the Planning Authority prior to the commencement of development. Thereafter the protective fencing is to be erected prior to commencement of development, and to be retained for the duration of construction works on the site.
Reason: To protect the neighbouring mature ash tree, which makes a significant contribution to the site setting.
2. The adjoining public Right of Way (BR135) "Border Abbeys Way" is to remain free from obstruction during the construction of the development hereby approved.
Reason: To ensure public rights of access are not diminished during construction works on the site.

Applicant Informative

1. The developer should liaise with the Council's Access Team to ensure the Right of Way is protected during the construction period and no adverse damage is inflicted on the path as a result of construction vehicles accessing the site.

DRAWING NUMBERS

201 – Proposed Site Plan
301 – Proposed Site Elevation

Approved by

| Name | Designation | Signature |
|------------|------------------------|-----------|
| Ian Aikman | Chief Planning Officer | |

The original version of this report has been signed by the Service Director (Regulatory Services) and the signed copy has been retained by the Council.

Author(s)

| Name | Designation |
|--------------|------------------|
| Andrew Evans | Planning Officer |

