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Ms K Lyons  
Highland Council  
Sent By E-mail

Our ref: PPA-270-2168  
Planning Authority ref: 16/04126/FUL

20 June 2017

Dear Ms Lyons

**PLANNING PERMISSION APPEAL: PUBLIC ROAD AT LAND 35M NORTH WEST OF 1 FYRISH COURT OFF BALCONIE STREET EVANTON IV16 9UQ**

Please find attached a copy of the decision on this appeal

The reporter's decision is final. However you may wish to know that individuals unhappy with the decision made by the reporter may have the right to appeal to the Court of Session, Parliament House, Parliament Square, Edinburgh, EH1 1RQ. An appeal **must** be made within six weeks of the date of the appeal decision. Please note though, that an appeal to the Court of Session can only be made on a point of law and it may be useful to seek professional advice before taking this course of action. For more information on challenging decisions made by DPEA please see <https://beta.gov.scot/publications/challenging-planning-decisions-guidance/>.

I trust this information is clear. Please do not hesitate to contact me if you require any further information.

Yours sincerely

*Marie Buchanan*

**MARIE BUCHANAN**  
**Case Officer**  
**Planning and Environmental Appeals Division**





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Decision by Don Rankin, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2168
- Site address: Public Road at land 35m north west of 1 Fyrish Court, off Balconie Street, Evanton, Highland, IV16 9UQ
- Appeal by CTIL and Telefonica UK against the decision by Highland Council
- Application for planning permission dated 9 September 2017 refused by notice dated 27 February 2017.
- The development proposed: 16 metre telecommunications pole with 4 No. shrouded antennas, 2 No. dishes and 3 ground based cabinets located on the adopted grass verge.
- Application drawings: site plan and elevation
- Date of site visit by Reporter: 30 May 2017

Date of appeal decision: 20 June 2017

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## Decision

I allow the appeal and grant planning permission subject to the following condition: The street pole hereby permitted shall be finished and maintained in a dark brown, non-reflective colour; and the cabinets finished in a dark green, non-reflective colour. (Reason: In the interests of safeguarding the established amenity of the area.). Attention is drawn to the 3 advisory notes at the end of the notice.

## Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions of the development plan the main issues in this appeal are: (1) whether the proposal is contrary to the criteria contained in Policies 28 and 46 of the Highland-wide Local Development Plan (HWLDP) with respect to its impact on the character and appearance of the area; and (2) whether other material considerations warrant the grant or refusal of permission.

### Policy considerations

2. Scottish Planning Policy (SPP) places a high priority on improving telecommunications though it is accepted that this must take into consideration the character and appearance of the area and the amenity of local residents. Policy 46 of the HWLDP carries forward this aspect of SPP emphasising the council's intention to support such improvements. There are however a number of criteria which must be met. Of most relevance to this proposal is the requirement that equipment and any associated access are sited and designed sensitively to avoid adverse impacts on natural, built and cultural heritage, including



landscape character and views. Policy 28 of the HWLDP, cited in the council's reason for refusal, requires proposals to be assessed as to their impact on residential and community amenity. The first key issue is therefore to determine the extent of the visual impact on the amenity both of local residents and on the character and appearance of the village. Secondly there is need to weigh any adverse impact against the generally accepted need to improve mobile phone reception in Evanton.

### Amenity

3. Turning to the first of these two matters, the proposal is for the erection of a 16-metre-high telecommunications mast and three concrete based control boxes in the centre of Evanton. This would be located on the roadside grass verge adjacent to the main road through the village, Balconie Street on the corner with Fyrish Court. The nearest buildings are the nearby telephone exchange (approximately 10 metres to the north), No.20 Balconie Street (a dwelling approximately 20 metres away across the road), flats in Fyrish Court (approximately 25 metres east), and the local church (approximately 30 metres north). This is a prominent site in the centre of the village. The mast would exceed the height of the surrounding buildings and the village lamp standards. I note from the submitted photo visualisations that although the lower part of the mast would be partially screened by nearby trees when viewed from the north it would be clearly visible to local residents, those using the church and to tourists passing through the village when viewed from all other angles. There is no provision for tree screening, or indeed any other measures to hide or disguise the nature or function of the mast.

4. The mast would therefore be a new and prominent feature in the village. It has been designed to be a single slim pole with the aerials covered. Such antennae are a frequent and usually accepted part of the street scene both in urban and rural areas. In this case the slender pole is similar to the street lamps, though taller. Additionally there are three control boxes. Set against the backdrop of the existing telephone exchange, the nearest building to the appeal site, these are not significantly larger than other items of street furniture which one would reasonably expect to find in a roadside location. They could not therefore be regarded as incongruous. Whilst I note the concerns of the Community Council and other objectors about the potential impact on tourism arising from a diminution of the visual attractiveness of the village I consider any effect would be minimal.

5. The community council and the planning authority have both raised concern about the location of the mast in the view north along Balconie Street to the church, some 30 metres distant. I accept that initially the new telecommunication mast would appear as an incongruous addition to the street scene. The village is not however in a conservation area and the church is not a listed building. There are therefore no special imperatives to preserve the existing character and appearance of the village or to protect the setting of the church. The street scene inevitably will evolve to accommodate new development and innovative technology. The public generally understand the need for such masts and appreciate the improved communications which they afford. In time it would become just another part of the accepted street scene. I therefore consider that it would not significantly adversely affect the amenity of those wishing to attend the church.

6. Turning to the impact on residential amenity, the mast would be a slender pole sited about 20 metres from No.20 Balconie Street and about 30 metres from the nearest

dwellings in Fyrish Court. It would be visible in the outlook from these properties. However, located on the other side of Balconie Street from No.20 and set against the backdrop of the housing development at Fyrish Court it could not be described as overbearing. The same applies to the outlook from Fyrish Court. The preservation of views is not in itself a material planning consideration.

7. I conclude therefore that the proposed telecommunications mast would satisfactorily meet the criteria in HWLDP Policies 28 and 46 with regard to individual and community amenity.

#### Service requirements

8. Turning to the issue of mobile phone reception in the village, there appears to be a general acceptance of the need for improvement. There has been a systematic examination of alternative sites submitted as part of the appellant's supplementary information. There has been an assessment of eight sites resulting in a conclusion that the site proposed is the best operational option. All of the others, with the exception of Drummond Farm, are subject to constraints which render them unviable. The proposal to locate the antennae on the concrete silos at Drummond Farm, whilst operationally viable, has not been accepted by the site owner. An alternative, operationally viable, site must therefore be identified to enable the required improvement in service coverage. The appeal site would appear to be the last available option. Given the policy imperative of SPP and the HWLDP in promoting improved communication services, particularly to rural locations like Evanton, I give significant weight to the need for the communications mast.

#### Other matters

9. With regard to other matters raised the transmission equipment intended to be used complies with the ICNIRP standard with regard to health. 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 International Commission on Non-Ionizing Radiation (ICNIRP) for public exposure as expressed in the EU Council recommendation of July 1999. This takes into account the cumulative effect of the emissions from the proposed installation and all radio base stations present at, or near, the proposed location. There are therefore no public health issues to be addressed.

10. There are no objections from the council highways department with regard to any visual obstruction at the Balconie Street, Fyrish Court junction or to any other matters which could endanger road safety. There is no convincing evidence that the proposed development would have any adverse impact on local wildlife or local rare wild birds or adversely affect local television reception. The effect of the development on property values, were it to occur, is not a material planning consideration.

#### Conclusion

11. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan, with respect to protection of amenity and the promotion of improved telecommunication services. I have

considered all the other matters raised, but there are none which would lead me to alter my conclusions.

12. With regard to the council's suggested conditions they have specified a control of the colour of the mast which I consider appropriate, as well as a suspension of normal permitted development rights which in this case is not relevant to the development proposed. I have not therefore adopted that suggestion.

*Don Rankin*

Reporter

### Advisory notes

- 1. The length of the permission:** This planning permission 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 section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2. Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 3. Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).