

THE COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015

Fife Council propose to change the use of a common good property: Land adjacent Scoonie Golf Course, North Links, Leven. British Telecommunications plc have requested permission to locate 3 x 9 metre light wooden telegraph poles on 3 sites at Scoonie Golf Course Leven in terms of the Electronic Communications Code.

The following representations have been received in response to the consultation carried out under section 104 of the 2015 Act.

Representation	IH (received by e-mail 10 th January 2022)
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I now realise that the cut-off date for objections to the proposed BT installations has passed by three days before the letter of objection was drafted by a neighbour; but I think that our objection should still be heard. Can you please forward the following!

My experience with planning applications is such that the procedure for planning or building approvals required that the proposals were to be submitted with appropriate plans of drawings and specifications before any work was undertaken. Copies of these documents should then be sent to the owners or occupiers of all adjacent properties, which may be effected by the proposed changes, to allow them the opportunity for comment, disapproval or discussion.

No-one in North Links has received any communication with respect to this BT application and it was only by chance a neighbour came across the notification on the planning site - on the 6th of Jan 22 - the cut-off date for responses. The BT poles were installed in mid-November!

The application documents show that there are three poles erected. In fact four poles have been erected. The pole at the Scoonie Burn has been omitted from the plan. In addition the pole shown on the path from North Links to East Links has not been erected in the position shown on the plan.

The application does not give any indication of why the poles are deemed necessary, what services (assume fibre-optic cables) are to be supplied and what the routing of the cables will be, where and how they will terminate and will any cable routes pass over the domestic properties in North Links? Is there a valid reason that the planned services could not be provided, utilising the existing BT infrastructure already in place at the rear of the properties on North Links, along the path of the old railway.

Some discussion and communication among all concerned parties with respect to the above questions could clarify the situation and easily resolve any perceived issues.

Fife Council Response:

It should be noted this this was a consultation on the change of use of common good land. To address the issues raised as to planning consultation:

Openreach are an Electronic Communications Code Operator.

There is provision in legislation that allows replacement/new poles to be erected under Permitted Development, this also includes development within Conservation Areas.

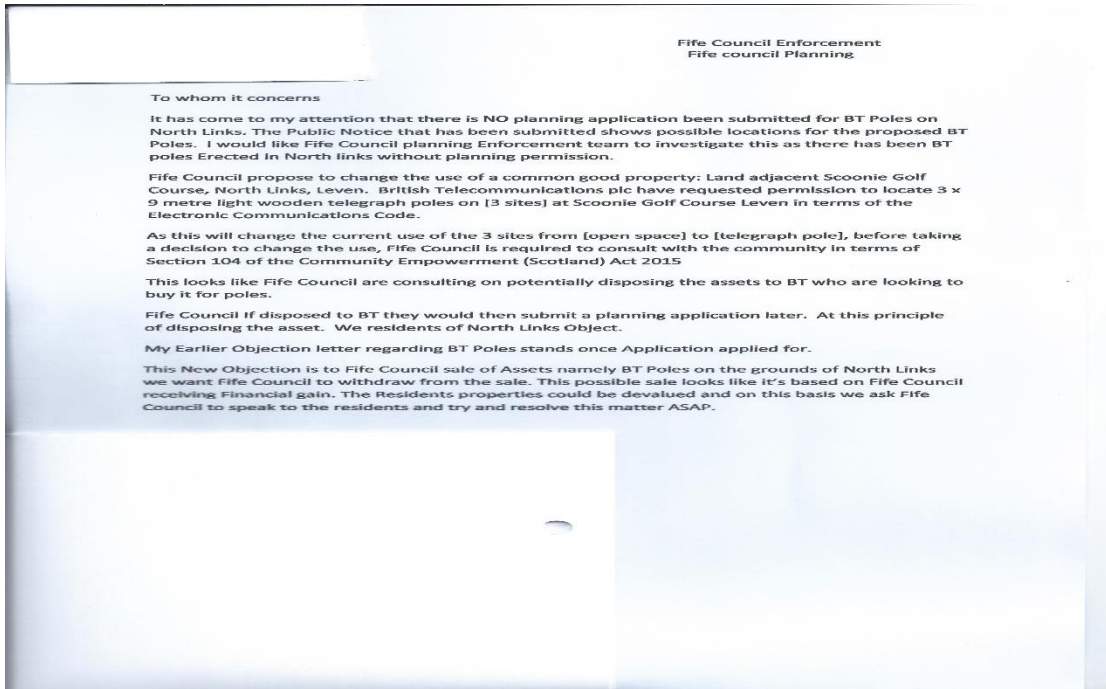
Therefore no Planning application was required.

Number and location of poles

As the consultation relates to common good ground, there are only 3 poles proposed on the common good. The fourth pole sits on a housing title. The location of one pole has been slightly amended however this is not considered to be material and the Council is consulting on the change of use aspect.

Any further representations should be addressed to BT Openreach as follows:

Jamie Anderson, Clerk of Works: jamie.4.anderson@openreach.co.uk



Fife Council Response

1. Regarding the location of poles and consultation with the residents, these should be addressed to BT Openreach;
2. The matter of planning has been addressed in the response above, no planning application was required as the poles fall under permitted development. To discuss the location of the poles please contact BT Openreach.
3. The objection is noted however this relates to the location of poles and wires and not the change of use of common good ground. Any objection should be directed to BT Openreach.
4. Regarding the removal of the poles please contact BT Openreach.
5. Noted that the actual location of the poles doesn't match the plan. The Council has clarified the correct location with BT Openreach. This is a minor alteration and does not affect the consultation for change of use of common good ground.

Any further representations should be addressed to BT Openreach as follows:

Jamie Anderson, Clerk of Works: jamie.4.anderson@openreach.co.uk

Representation	JF (Received by e-mail 15 th January 2022)
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To whom it Concerns

Fife Council requires to consult with the community in terms of Section 104 of the Community Empowerment (Scotland) Act 2015.

Proposals to dispose or change the use of Common Good assets must follow a prescribed process in accordance with legislation. This includes public consultation. Details of current and previous consultations along with representations and decisions can. Will be on FC Web Page.

British Telecommunications plc have requested permission to locate 3 x 9 metre light wooden telegraph poles on [3 sites] at Scoonie Golf Course Leven in terms of the Electronic Communications Code. Permission was asked but not given to my Knowledge.

Changes to legislation:

Communications Act 2003, Paragraph 75 - 3A is up to date with all changes known to be in force on or before 15 January 2022.

(5) An operator who breaches the requirements of this paragraph is guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) In any proceedings for an offence under this paragraph it is a defence for the person charged to prove that the person took all reasonable steps and exercised all due diligence to avoid committing the offence.

This looks like the council are consulting on potentially disposing the assets to BT who are looking to buy it for poles under communication Act 2003 Paragraph 75 3A, Fife Council If disposed to BT they would then submit a planning application later. At this principle of disposing the asset. We residents of North Links Object. We believe that BT and FC have not completed the Public Notice that was submitted 11th December 2021.

Because of the complex and law change we are asking for more information and clarification from both parties FC & BT have not Broke there own Procedures/law by planting BT Poles in Common Good Ground on Scoonie Golf Course without agreement being in place to Allow change of use. BT operator who breaches the requirements of this paragraph is guilty of an offence and liable on summary conviction to a fine under **Communications Act 2003, Paragraph 75 - 3A Section 5**

We also dispute the Public Notice that was on the poles as there seems to be some dispute because the Notice was removed from the Poles before expire date. We also never had communication from BT about our Objections that were submitted. There is no Electronic submission options. This should be rectified for more clarity. To my understanding every one of the residents put Objections to BT and FC running poles up North links.(Scoonie Golf Course) Wayleave Common good. BT have already got agreement to allow utilities to come on the land North links residents gardens where BT Poles and apparatus.

There would Possible be no Objections if Used old Rail way track to the rear of residents houses. This could also service East Links.

The Communication Act has changed on the 15th January 2022 and is superseded by new act or rules. We are also want clarification regarding how this will effect out Objections and future planning application.

The Objections regarding Poles that have been put up without Permission or Planning approval. Fife Council stated that BT apparently don't need permission. Possibly Scottish government law that allows them permission without asking local Authority. Waiting on FC getting the relevant information from there legal team. After the Asset transfer or agreement to change of use. This would then allow BT to Submit planning permission to erect Telegraph Poles and Cables. (Need Clarification from FC and BT if this is True)

One of my main concerns is if there is a change to the common law agreement to allow utilities and Telecommunications. They could put up a Telecommunications MASK or Substation or any other building. Located on Scoonie Golf Course Common good Ground in the future without seeking permission under new laws that been approved, that might come into Effect on after 15th January 2022. (Need Clarification from BT and FC how this would Effect Objections and future planning) We would lose more rites.

This also looks why the Public Notice has been rushed through without consultation to the residents.

I've received information that there has been application for BT services from North Links. (Possible The Golf Trust) Scoonie Golf Course.

I've also got concerns that the benefactor of the use on common ground have got there own agenda. Unsightly BT poles could effect the values of the properties in North Links now and in the future but continue to benefit third party. There could possibly be more changes to common good ground. (Tele Communication Mask) Development Silverburn (Utilities Mask Cable's) Think The residents of North likes needs to be aware that change to Common good ground could have a very negative Effects in the future. This is why I Strongly recommend we keep asking Fife Council not to change the use of the common good ground. We need be aware that there could be bigger agenda and benefactor. Seems preferential treatment to the Golf Trust. This is to be Treated as more Objections to the change of common good ground. We ask Fife Council to withdraw from Transfer use on Common good ground NOT Allowing BT permission to use Telegraph Poles on Scoonie Golf Course.

Would also want FC to explain who benefits from the transfer.

There is alternative routes for Bt pole location That don't Effect the views from residents houses, BT can use existing poles to rear north links that easily solves this problem. There is very easy solution.

Fife Council response:

Permission for the poles: Fife Council is still in the process of issuing the consent for the 3 poles located on common good land. This will be completed after the common good consultation has been completed. BT Openreach have noted that the poles were erected prematurely. The Council awaits BT Openreach application for permission of the fourth pole which is not located on common good land.

Disposal of assets: Fife Council is not disposing of assets, Fife Council are allowing change of use for poles to be located on common good land. There is no sale or lease agreement in place and BT have no rights in this regard other than the wayleave to be entered into.

Actions of BT Openreach: Fife Council are continuing to communicate with BT Openreach to finalise permission for the poles on Fife Council land. If you want to complain direct to BT Openreach regarding their actions please contact:

Jamie Anderson, Clerk of Works: jamie.4.anderson@openreach.co.uk

Planning Permission: This matter has been addressed in the response to the first representation. The poles fall under permitted development.

Concerns regarding future development: Any further poles or equipment from BT Openreach or any Electronic Communications Code Operator on Fife Council common good land would require further community consultation and Fife Council's consent. Each application would be decided on its individual merits. The current proposal does not set a precedent for future permissions being granted.

Value of properties in the area: this falls outwith the scope of this consultation.

Who benefits? BT Openreach and their customers will benefit from the proposals. Any suggestions as to alternative routes should be directed to BT Openreach (as above).

Decision 23 February 2022

The Council has considered the above representations received in relation to the change of use of the common good.

Decision to approve the change of use requested by BT Openreach for the location of 3 telegraph poles.