

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H08-0722-24 **Applicant:** Arqiva (Ltd)

Proposal: Installation of Electronic Communications Apparatus

Location: Land Off Belchmire Lane Gosberton Spalding

Terminal Date: 16th October 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy

02 Development Management

03 Design of New Development

05 Meeting Physical Infrastructure and Service Needs

29 The Historic Environment

National Guidance

National Planning Policy Framework 2023

National Planning Policy Framework (NPPF), December 2023

Section 10 - Supporting high quality communications
Section 12 - Achieving well-designed and beautiful places

Planning Practice Guidance (PPG)

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
ENVIRONMENT AGENCY	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	1

OTHER STATUTORY BODIES	0	0	0	1
------------------------	---	---	---	---

CASE OFFICER ASSESSMENT

Proposal

This application seeks determination as to whether the prior approval of the Local Planning Authority (LPA) is required for the erection of a 12m high, smart metering streetworks monopole and associated ancillary works on Land off Belchmire Lane in Gosberton.

Site Description

The site is within a residential area with properties to the east, south, west and north west. To the north are residential garages and immediately north and east is an area of public open space. Other street furniture, such as streetlights, were noted in the vicinity.

History

H08-0469-24 - Full. Construction and operation of a micro energy storage facility. Approved 19-09-2024.

H08-1194-22 - Telecom - Installation of Electronic Communications Apparatus - Approved 21-02-2023

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Environment Agency

There are no matters for consideration within the remit of the Environment Agency for this prior approval application under Schedule 2, Part 16, Class A of the GDPO. We therefore do not wish to make any comments on this application.

Welland and Deeping Internal Drainage Board

Further to receipt of the above, I confirm that Welland & Deepings IDB have no comment to make with regard to this application at this stage.

Lincolnshire County Council Highways & Local Flood Authority

No Objections:

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Comments:

The prior approval application is for the installation of Electronic Communications Apparatus. The location of the equipment is in the public highway therefore a Section 50 license will be required with Lincolnshire County Council. The proposal will not have an adverse impact on the public

highway or surface water flooding.

SHDC Environmental Protection

No comments.

Historic Places Team - Archaeology

Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application. It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

Conservation Officer

No objections.

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Planning Considerations

Principle of Development - Town and Country Planning (General Permitted Development) Order, 2015 (as amended)

The development is proposed under the provisions of Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) Order, 2015 (as amended) provides that the following development as described below is permitted:

'Development by or on behalf of an electronic communications code operator for the purpose of the operator's electronic communications network in, on, over or under land controlled by that operator or in accordance with the electronic communications code, consisting of -
(a) the installation, alteration or replacement of any electronic communications apparatus,
(b) the use of land in an emergency for a period not exceeding 18 months to station and operate moveable electronic communications apparatus required for the replacement of unserviceable electronic communications apparatus, including the provision of moveable structures on the land for the purposes of that use, or
(c) development ancillary to radio equipment housing..'

Part 16 Class A details that development is not 'permitted' for 'ground-based apparatus', that:
"(1) Development consisting of the installation, alteration or replacement of electronic communications apparatus (other than on a building) is not permitted by Class A(a) if -
(a) in the case of the installation of electronic communications apparatus (other than a mast), the apparatus, excluding any antenna, would exceed a height of 15 metres above ground level;
(b) in the case of the alteration or replacement of electronic communications apparatus (other than a mast) that is already installed, the apparatus, excluding any antenna, would when altered or replaced exceed the height of the existing apparatus or a height of 15 metres above ground level, whichever is the greater;"

A.1(1)(c) to (e) of Class A of Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) state:

"A.1-(1) Development consisting of the installation, alteration or replacement of electronic communications apparatus (other than on a building) is not permitted by Class A(a) if -
(c) in the case of the installation of a mast, the mast, excluding any antenna, would exceed a height of-
(i) 30 metres above ground level on unprotected land; or

- (ii) 25 metres above ground level on article 2(3) land or land which is on a highway;
- (d) in the case of the alteration or replacement of a mast, the height of the mast, excluding any antenna, would when altered or replaced exceed the greater of the height of the existing mast or a height of
 - (i) 30 metres above ground level on unprotected land; or
 - (ii) 25 metres above ground level on article 2(3) land or land which is on a highway; or
- (e) in the case of the alteration or replacement of a mast
 - (i) the mast is on any land which is, or is within, a site of special scientific interest; and
 - (ii) the mast would, when altered or replaced, exceed the original width of the mast by more than one third".

Para. A.2 sets out conditions in which the aforementioned development must comply with in order for the development to be permitted. In this regard Para A.2(2) provides that:

"Class A development is permitted subject to the condition that -

- (a) any electronic communications apparatus provided in accordance with that permission is removed from the land or building on which it is situated:
 - (i) if such development was carried out in an emergency, at the expiry of the relevant period; or
 - (ii) in any other case, as soon as reasonably practicable after it is no longer required for electronic communications purposes; and
- (b) such land or building is restored to its condition before the development took place, or to any other condition as may be agreed in writing between the local planning authority and the developer."

A.2(3) of Part 16, Class A, expresses that development under Class A of Part 16 is permitted subject to the conditions set out in paragraph A.3 (prior approval). This specifically states that "Subject to sub-paragraph (5), Class A development - is permitted subject, except in case of emergency (in which case only paragraph A.3(12) applies), to the conditions set out in paragraph A.3 (prior approval)".

Paragraph A.3 sets out that before beginning the development, the developer must write to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development.

Specifically, A.3(4) states that: "(4) Before beginning the development described in paragraph A.2(3), the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the siting and appearance of the development", with A.3(5) detailing the requirements for such submission.

Accordingly, the only matters that may be considered are the siting and appearance of the development, as stated by Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).

Assessment

Officers note that Section 10 of the National Planning Policy Framework (December 2023) (NPPF), relating to 'Supporting high quality communications' states within Paragraph 122 that: "Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure".

With regard to the aforementioned, the applicant has submitted a declaration of conformity in relation to the International Commission on Non-Ionizing Radiation Protection (ICNIRP) within the application as required.

Siting and Appearance

Section 12 of the NPPF, "Achieving well-designed and beautiful places", states that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should

be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality, to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Developments should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the NPPF and require that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable. Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

Beyond this, Paragraph 118 of the National Planning Policy Framework (December 2023) states that "Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections".

Paragraph 119 goes on to detail that "The number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate".

With regard to the design and appearance of the proposed development, the submission was accompanied by supporting information detailing the criteria in which the applicant used to consider the proposed site and subsequently informed the proposal.

It is considered that whilst the proposal comprises a monopole with a height of 12m along with associated equipment, which would undoubtedly be readily visible and prominent within the location, the information put forward in support of the proposal illustrates that the siting of the equipment within a residential area is difficult to avoid.

The proposed equipment will be located on open space adjacent the footpath at Belchmire Lane, Gosberton. The micro pole is located 20m from the closest neighbouring property. It would be prominent within the immediate area and to vehicular or pedestrian users of the nearby roads, however the equipment would consist of a micro pole and would therefore not be as prominent as a monopole. This location would mean that numerous other street features, including street furniture such as lamp posts and street signs, are located within verges or similar areas nearby. These features would help mitigate the possible impact of the proposed equipment, although it is not disputed that the installation of the proposal would cause a particular level of harm to the area's character and appearance.

Notwithstanding this, given that one of the functions of the mast is to be used for the smart water metering network for Anglian Water.

In summary, the siting, scale and design of the proposed equipment is considered to cause minor harm to the character of the area, but the chosen siting is viewed as reasonable, and the visual harm caused is considered to be outweighed by the social, technological and economic benefits of improved services provided by the mono pole.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Other Matters

As advised above, the only matters that can be considered in the determination of this application are appearance and siting. The Local Planning Authority cannot take health considerations into account when determining such mast proposals.

All proposals for telecommunications development should be submitted with an International Commission on Non-Ionising Radiation Protection (ICNIRP) Certificate. This certificate confirms that the mast meets the guidelines for public exposure. A Declaration of Conformity with ICNIRP Public Exposure Guidelines has been submitted with the application. Beyond this, the health effects in relation to the development or concerns about them, cannot be considered further by the Local Planning Authority.

While the only matters that can be considered in the determination of this application are appearance and siting, it is of note, as expressed above, that Section 10 of the NPPF does give weight in favour of the development of communication equipment. Paragraph 118 states "Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G)".

Planning Balance

As stated by Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), the only matters that may be considered as part of an application of this nature are the siting and appearance of the development.

The proposed works are not considered to have an unacceptable impact upon the character or appearance of the area. The proposal is located within an area that, whilst surrounded by nearby dwellings, also comprises street furniture, helping to naturalise the development.

Conclusion

The proposal has been assessed in respect of its visual impacts upon the area and is considered acceptable and in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) and advice within the National Planning Policy Framework, December 2023.

The proposal is considered to conform to Part 16, Class A.1 of The Town and Country Planning (General Permitted Development) (England) Order 2015.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Recommendation

The development should be approved under delegated authority.