

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H08-1194-22 **Applicant:** Arqiva Ltd
Proposal: Installation of Electronic Communications Apparatus
Location: Land At Gosberton Pumping Station Belchmire Lane Gosberton
Terminal Date: 28th February 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02 Development Management
03 Design of New Development

National Guidance

National Planning Policy Framework 2021

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

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
RESIDENTS	2	0	0	0

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 15m high telecommunications monopole and associated ancillary works on Land at Gosberton Pumping Station on Belchmire Lane in Gosberton.

The cabinets indicated on the submitted drawings adjacent to the proposed monopole are considered to be permitted development under Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) and there is no requirement for determination to be sought as to whether the prior approval of the LPA is required for their installation. The merits of these have therefore not been considered as part of this application.

Site Description

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

History

No relevant planning history.

Consultation Responses

LCC Highways/SUDS

No objection.

The proposed electronic communication apparatus would have no impact upon the operation or the safety of the local highway network and therefore, the highway authority does not wish to object to the grant of Consent for this Application.

Public

Three letters of representation have been received and summarised:

- Completely overshadow our view from our garden
- Complete eyesore
- Reduce property value
- Change the appearance of the village
- It will be visible from a long distance

Planning Considerations

GPDO

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..'

Para A.1 of Class A provides that development, described under Class A(a), would not be permitted for particular reasons. "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;
- (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:

(2) 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.

Para.A.3(4) of Class A provides 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.

Para.A.3(5) of the order sets out the requirements in which an application submitted to the Local Planning Authority must be accompanied with. This outlines that the application must be accompanied by -

(a) a written description of the proposed development and a plan indicating its proposed location together with any fee required to be paid;

(b) the developer's contact address, and the developer's email address if the developer is content to receive communications electronically;

(c) evidence that the requirements of sub-paragraph (1) have been satisfied where applicable; and

(d) where the condition in paragraph A.2(5A) applies, evidence that the Civil Aviation Authority, the Secretary of State for Defence or the operator of the civil safeguarding area or defence safeguarding area, as the case may be, has been notified of the proposal.

Assessment

Section 10 of the National Planning Policy Framework (NPPF), relating to 'Supporting high quality communications' states within para 116 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.

This application relates to a prior notification under Class A of Part 16, Schedule 2 of the General Permitted Development Order. Therefore, as set out within the processes and procedures of this order, the siting and design of the proposed development are the sole matters in which grounds for refusal can be provided.

In light of the above, the Local Planning Authority are only permitted to restrict the development with regards to the siting and appearance of the development; therefore, matters relating to possible health impacts or implications of the proposed development cannot be considered by this proposal.

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 15.0m 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 adjacent Gosberton Pumping Station located off Belchmire Lane. The micro poles is located 26.6m from the public footpath and 6m from the closet neighbouring property boundary. It would be relatively 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 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 areas character and appearance.

Notwithstanding this, as previously stated, given that one of the functions of mobile telecommunications is to provide mobile phone and data connections to people in and near where they live, the siting of aerials in or close to residential areas is difficult to avoid. 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 telecommunications services.

Other matters

Objection has been received regarding impact upon property values, which is not a planning consideration and can be given very little weight.

Conclusion

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 advantages of providing improved telecommunications services.

Recommendation: Prior Notice Approved Conditionally

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.