

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H14-0897-23 **Applicant:** CityFibre

Proposal: Erection and siting of fibre exchange telecommunications infrastructure to provide a full fibre (gigabit) to the premises service

Location: Site Off Stephenson Avenue Pinchbeck Spalding

Terminal Date: 7th December 2023

Planning Policies**South East Lincolnshire Local Plan - Adopted: March 2019**

01 Spatial Strategy
02 Development Management
03 Design of New Development
04 Approach to Flood Risk
07 Improving South East Lincolnshire's Employment Land Portfolio

National Guidance**National Planning Policy Framework 2023**

10 - Supporting high quality communications
12 - Achieving well-designed places
14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	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	0

OTHER STATUTORY BODIES	0	0	0	1
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CASE OFFICER ASSESSMENT

SITE DESCRIPTION

The application site is undeveloped land within the defined settlement limits of Pinchbeck in Wardentree Lane Industrial Estate. This site is surrounded by industrial estate buildings with Vernatt's Drain further away to the south of the site. An electricity sub station is located in the north-west corner of the site. The site is grassed throughout and is bordered by 2 metre high wire mesh fence at the western and southern boundaries. The north and eastern boundary is bordered by established trees and hedging.

The site is in Environment Agency Flood Zone 3, in a "Danger for Some" hazard area, with a maximum predicted flood depth of 0.5 metres on the 2115 South Holland Strategic Flood Risk Mapping. The submitted Flood Risk Assessment states: "On the basis of the information provided, this design flood level should be taken as 3.25mAOD. Normal SFRA recommendation is to set the minimum vulnerable equipment level for the development at a minimum of 300mm above the 'design' level, or 3.55mAOD. The lowest levels on site have an approximate level of 3.09m AOD which is below this level." Surface water will be disposed off to an existing water course.

PROPOSAL

This full planning application seeks to erect fibre exchange telecommunications infrastructure to provide a full fibre (gigabit) to the premises service at a site off Stephenson Avenue, Pinchbeck. The existing fence line on the western boundary will be modified to allow for a 4 metre wide double access gate. The proposed boundary treatment surrounding the cabins is a square shaped 2.4 metre high grey finish palisade fence on a concrete ring beam.

The access road will be tarmacked with a turning area toward the eastern boundary with pre-case concrete edging. A new dropped kerb is to be provided to provide access to the site. A 3 metre wide double access gate will provide access to the telecommunication cabins. Two cabins measuring 3.6 metres in width, 12 metres in depth, and 3.4 metres in height will be sited within the palisade fencing. Two generators will be sited in between the cabins. These generators will measure 1.3 metres in width, 3.3 metres in depth, and 1.9 metres in height. The meter cabinet will measure 2 metres in width, 0.8 metres in depth, 2.267 metres in height and sit on a concrete platform 0.45 metres in height. The concrete platform will measure 2.41 metres in width and 2.52 metres in depth.

The roof and walls of the cabins, meter cabinet and generators will be constructed from grey metal.

A site visit was conducted on Friday the 13th of October 2023.

RELEVANT HISTORY

H14-0255-18

Full - Proposed vehicular access - Approved - 17 April 2018 - Not commenced.

H14-0402-20

Full - Industrial building comprising of 3 No units (each with ancillary accommodation), with associated car parking, hard standing, etc - Approved - 07 July 2020 - Not commenced.

CONSULTATION RESPONSES

Lincolnshire County Council - Highways & SUDS

No objection. They request standard access and utility informatives.

"The proposed facility is to be located on an undeveloped unit within the Enterprise Way Commercial/Employment area of Spalding (Pinchbeck Parish). The facility, once operational, would attract very low vehicle movements - advised to be a maximum of two visits per month, each being one two two hours duration. Such low levels of movement would not be expected to overwhelm to local highway network. Parking for the maintenance engineer's vehicle is to be provided on site. Access is to be by the existing vehicle access that has been provided for this unit, together with a new access. In view of the above and 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 and therefore does not wish to object to this planning application."

South Holland District Council - Environmental Protection

No objections.

Environment Agency

No objections. Requests a condition that finished floor levels are set at 3.55 metres AOD.

Welland and Deepings Internal Drainage Board

No comments.

Pinchbeck Parish Council

"It would improve parish communication infrastructure."

KEY PLANNING CONSIDERATIONS

The main issues and considerations in this case are (but are not limited to):

Principle of Development and Sustainability

Presumption in Favour

Layout, Design and Consideration of the Character and Appearance of the Area

Impact on Amenity/Land Users

Parking / Highway Safety

Flooding Considerations / Drainage

EVALUATION

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed above.

The policies and provisions set out in the National Planning Policy Framework (updated September 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development and Sustainability

Policy 1 of the South East Lincolnshire Local Plan sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in

respect of sustainable development are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location in terms of sustainability.

The submitted Design and Access Statement states: *"A review of the planning application register reveals there has been one recent application of some relevance. That being H14-0402-20 which sought consent for an industrial building to provide 3x small business units on the site. Permission was granted in July 2020, but has since lapsed, without the consent being implemented."*

"Since the planning permission was granted, the site has been marketed for sale with the benefit of the planning permission for the approved business use. However, there has been no interest in purchasing the site, suggesting a lack of interest/viability in the use of the site for business purposes."

Paragraph 114 of the National Planning Policy Framework 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."*

Policy 7 of the South East Lincolnshire Local Plan is titled "Improving S E Lincolnshire's Employment Land Portfolio" This policy advises on development in main employment areas, noting that such areas are allocated for main employment uses (B1, B2, and B8). Development for non-Class B uses will only be supported if the applicant can demonstrate the development is ancillary to the effective functioning of the area. It is considered that full fibre broadband will benefit the running of businesses in the area by providing high speed, reliable internet.

As such, the proposal is considered to be in accordance with the requirements of Policy 1 and 7 of the South East Lincolnshire Local Plan when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the amenities of neighbouring buildings, and parking provision which are discussed in turn as follows.

Presumption in Favour

Paragraph 10 of the National Planning Policy Framework details that "so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11)".

Paragraph 11 expresses that for decision-taking this means: "c) approving development proposals that accord with an up-to-date development plan without delay; or d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

However, paragraph 12 of the National Planning Policy Framework reiterates that "The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making".

Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (2023) specifically relates to 'Achieving well-designed places' and details 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 130, contained within section 12 of the National Planning Policy Framework (2023), 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. Development proposals should also ensure that developments 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.

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.

Likewise, policy 2 of the South East Lincolnshire Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, policy 3 accords with the provisions of section 12 of the National Planning Policy Framework, in that it 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 National Planning Policy Framework 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.

With regard to visual impact, the submitted Design and Access Statement states: *"The scale of development is small, in comparison with the form of the built-up surroundings. The appearance is typical for infrastructure such as this, and the visual impact of the development is limited due to the existing built form and landscaping that envelops the site."* The roof and walls of the cabins, meter cabinet and generators will be constructed from grey metal. It is considered that the design, scale, materials and location of the development is such that it will not be visually prominent and not materially impact the character of the area.

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 South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework.

Impact on Amenity/Land Users

Paragraph 130 of the National Planning Policy Framework (2023) states that development 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that neighbouring amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

With regard to noise, the submitted Design and Access Statement states: *"Given the previously discussed traffic generation associated with the site, there will be little noise impact on the surroundings so far as traffic noise is concerned. The cabins will contain the noise of the equipment within."*

"The main source of noise output will derive from the air conditioning units. However, given the site surroundings are that of an industrial/business park, and the nearest residential (or other noise sensitive use) is some distance away, the site is not in a sensitive location so far as noise output is concerned." The Environmental Protection Department has been consulted on this application and has no objections to the proposal.

The existing fence line on the western boundary will be modified to allow for a 4 metre wide double access gate. The proposed boundary treatment surrounding the cabins is a square shaped 2.4 metre high grey finish palisade fence on a concrete ring beam.

The access road will be tarmacked with a turning area toward the eastern boundary with pre-case concrete edging. A new dropped kerb is to be provided to provide access to the site. A 3 metre wide double access gate will provide access to the telecommunication cabins. Two cabins measuring 3.6 metres in width, 12 metres in depth, and 3.4 metres in height will be sited within the palisade fencing. Two generators will be sited in between the cabins. These generators will measure 1.3 metres in width, 3.3 metres in depth, and 1.9 metres in height. The meter cabinet will measure 2 metres in width, 0.8 metres in depth, 2.267 metres in height and sit on a concrete platform 0.45 metres in height. The concrete platform will measure 2.41 metres in width and 2.52 metres in depth.

The site will be raised 300mm above existing ground level to address flood risk. Given that the cabins are no higher than 3.4 metres in height, this is substantially lower in height than the surrounding buildings in the area. The proposed 2.4 metre high fencing is approximately 22 metres from the Gemini Accident Repairs Centre to the south-east at the nearest point, 38 metres to Unit 5 Plover Court to the south-west, 60 metres from Freshline to the west, and 62 metres from Saville House to the north. Given the proposed separation distances there is not considered to be an overlooking or overshadowing impact on neighbouring buildings. There is not considered to be an impact on residential amenity as there are not residential properties in the vicinity of the site.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the amenities of the occupiers of adjacent buildings or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework, and Policies 2 and 3 of the Local Plan.

Parking / Highway Safety

Section 9 of the National Planning Policy Framework (2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2023) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

The proposed plans show that the 4 metre high access gates are approximately 4 metres from the highway edge. This will allow vehicles to enter the site and open the gates without blocking the highway or pavement.

The submitted Design and Access Statement states: *"Once operational, it is anticipated that on average, a maximum of two visits per month would be needed (1-2 hours per day on site) for general maintenance purposes."*

It is considered that this level of usage and the off road parking provision will not lead to a material impact on parking provision or highway safety in the vicinity of the site. The County Highways and SUDS Officer has no objections to the proposal and requests access and utility informatics.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework.

Flooding Considerations / Drainage

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk

Assessment) will be permitted" in instances where specific criteria is met.

The submitted Flood Risk Assessment states: "On the basis of the information provided, this design flood level should be taken as 3.25mAOD. Normal SFRA recommendation is to set the minimum vulnerable equipment level for the development at a minimum of 300mm above the 'design' level, or 3.55mAOD. The lowest levels on site have an approximate level of 3.09m AOD which is below this level."

The Environment Agency has agreed with the recommendations of the Flood Risk Assessment and requested a condition that the site is set at 3.5mAOD. It is considered that the submitted Flood Risk Assessment adequately addresses potential flood risk in the area and does not lead to an overshadowing impact or impact on the character of the area from site being raised 300mm above existing ground levels.

PLANNING BALANCE

As detailed above, Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

Policy 7 of the South East Lincolnshire Local Plan is titled "Improving S E Lincolnshire's Employment Land Portfolio" This policy advises on development in main employment areas, noting that such areas are allocated for main employment uses (B1, B2, and B8). Development for non-Class B uses will only be supported if the applicant can demonstrate the development is ancillary to the effective functioning of the area. It is considered that full fibre broadband will benefit the running of businesses in the area by providing high speed, reliable internet.

The siting, dimensions and proposed use are not considered to have a material impact on the character or amenity of the surrounding area.

CONCLUSION

This application is considered to accord with Policies 1, 2, 3, 4 and 7 of the South East Lincolnshire Local Plan, 2019, as well as Sections 10, 12 and 14 of the National Planning Policy Framework, 2023.

RECOMMENDATION

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.

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.