

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0164-23 **Applicant:** Signal Infrastructure UK Limited

Proposal: Proposed 16.0m Phase 8 Monopole & associated ancillary works

Location: Holbeach Road Streetworks Holbeach Road Spalding

Terminal Date: 17th April 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy
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
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	0	2
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application seeks determination as to whether the prior approval of the Local Planning Authority

is required for the erection of a 16.0m Phase 8 Monopole & associated ancillary works. The works are to facilitate 5G roll out in the area.

The 3 no. cabinets indicated on the submitted drawings adjacent to the proposed monopole and its wraparound cabinet 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.

refer to H16-0349-22 for sections etc. See also H16-0473-21

Site Description

The application site is an area of grassed land located to the front of residential dwellings and bounded by the public highway. The site is adjacent to a main road in to the town of Spalding.

The land is on a prominent bend on a main road in to Spalding, and is over hung by a tree.

History

PE-00049-23 - Pre application submitted on 15 Feb 2023, and responded to by the LPA on 21 Feb 2023.

Officer note: The Council's target for response to pre application submissions is 20 days. A response was sent to this pre application within 6 days of receipt, however the application under consideration was submitted on 20 Feb 2023 and thus does not consider the pre application response.

The applicant refers to H16-1075-21 in their Site Specific Supplementary information document that supported this submission. For completeness the details of this application are set out:

H16-1075-21 - West Elloe Avenue, Spalding. TELECOM DETERMIN. Proposed 16.0m Phase 8 Monopole C/W wraparound Cabinet at base and associated ancillary works. REFUSED 29-11-21 for the following reasons:

Reason 1

The proposal, by virtue of its siting, would represent an unduly dominant, obtrusive and alien feature within the street scene. Accordingly, the proposal would result in unacceptable harm to the character, appearance and visual amenity of the surrounding area, which is contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

Reason 2

Insufficient information has been submitted to demonstrate that the siting of the development on the grass verge immediately adjacent to mature trees would not result in harm to or loss of these trees which provide an important amenity value to the area. No Arboricultural Impact Assessment or Method Statement has been submitted to demonstrate that the siting of the proposed development would have no adverse impact, particularly within the root protection areas of the trees. The siting of the proposal is therefore contrary to Policy 2 of the South East Lincolnshire Local Plan (2019).

Consultation Responses

SHDC Trees and Conservation Officer

When there are so few trees in the District compared to some, why place this proposed development in such close proximity to one? It will aesthetically spoil the appearance of the balanced canopy of the tree, when viewed from the west/roadside.

As the tree grows there is very likely to conflict with its branches. (Presume the tree is the ash along Holbeach Road which greatly contributes to the street scene, but comments would apply to any significant tree.) Trees can lose branches in storms, which potentially could cause problems.

Will the proximity of the tree affect the purpose of the pole? We do not want to be in a position where the tree has to be trimmed as it is affecting signals.

In any case, may be it would be prudent to reverse the position of the proposed cabinets to nearer the existing one, to reduce potential future conflict with the tree.

How is the pole fixed in the ground? beware of potential excavation and tree roots.

Root Protection Areas tend to be just outside of the existing canopy. Presume plans show existing canopy spread.

Should development go ahead the tree will require protecting to British Standard 5837:2012 directly prior to and during construction works.

SHDC Environmental Protection

No objection.

LCC Highway and Lead Flood Authority

No objection.

The operation of the proposed monopole and equipment cabinets that are proposed to be sited within the highway verge in near vicinity to the existing footway and would not be expected to have an unacceptable impact upon highway safety - the equipment would not, for example, be sited where it would impair visibility of on-coming traffic to drivers.

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.

Third Parties

One objection received raising the following (precised):

Visual impacts not sole consideration
Risk of 5 G to community health

Planning Considerations

Principle

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

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

Development not permitted: ground-based apparatus 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) 25 metres above ground level on unprotected land; or
(ii) 20 metres above ground level on article 2(3) land or land which is on a highway;

The proposal does not exceed the limitation set out and is therefore Permitted Development. However, as per A.2(3) of Class A of Part 16, development under Class A of Part 16 is permitted subject to the conditions set out in paragraph A.3 (prior approval). Paragraph A.3 sets out that before beginning the development, i.e. the installation of the monopole, 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.

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).

Officers also note Paragraph 118 of the National Planning Policy Framework (2021) (NPPF) which states: *"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."*

The proposed cabinets that would be sited adjacent to the mast and wraparound cabinet do not individually have a volume exceeding 2.5 cubic metres or exceed 15 metres in height. As such, they do not require prior approval and the merits of these cannot be considered as part of this application.

Siting, Appearance and Impact on Tree

Paragraph 114 of the NPPF states: *"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)."* However, Paragraph 115 goes on to state that: *"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."*

Section 12 of the NPPF provides advice on achieving well designed places. Paragraph 130 specifically requires developments to add to the overall quality of the area, be visually attractive and sympathetic to the local character, the built environment and landscape. Permission should however be refused for development of poor design (Paragraph 130).

The monopole would be readily visible in the street scene and the scale is not directly not comparable to any other structure or building in the vicinity. It would be visible at a distance on Holbeach Road and Roman Bank and would disrupt the tree canopy of the nearby tree. The mast would be sited almost immediately adjacent to a well-used footway and highway and would therefore be visually obtrusive to pedestrians, as well as motorists. Whilst it is accepted that there is other street furniture in the vicinity (such as street lights, road signs and other service boxes), it is considered that the proposal would have a material adverse impact on the wider street scene due to it being an unduly dominant, obtrusive and alien feature within the street scene.

In light of the above, the proposal is considered to be unacceptable in terms of its siting and appearance and therefore contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan (2019). Policy 2 of the Local Plan requires development proposals to take into account sustainable development considerations such as: size, scale, layout, impact on trees, character and appearance of the area and the relationship to existing development. Policy 3 requires development proposals to respect the scale and massing of neighbouring buildings and the landscape character of the location.

Other Matters

Concerns have been raised regarding the potential for impact on public health from the proposal. 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 copy of the certificate for this 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.

Whilst siting and appearance are the only planning considerations that can be assessed, for the avoidance of doubt, the Highway Authority were consulted as to whether the monopole's siting and

appearance would unacceptably impact highway safety. The Highway Authority have raised no objection to the application.

Supporting information has been submitted by the applicant to demonstrate that they have evaluated other potential sites and tall structures in the vicinity to cater for 5g rollout, and this site represents the only viable solution that minimises amenity issues. However, for the reasons outlined above, the siting and appearance is not considered to be acceptable by the LPA.

It is noted that the Site Specific Supplementary Information document indicates that no comments had been made by the Local Planning Authority (LPA) prior to the application being submitted. For clarity, this is incorrect - pre-application advice was requested by the applicant on 15 February 2023, a response was provided to the applicant by the LPA on 21 February 2023, with the application being submitted on 20 February 2023, without waiting for the pre application response. It is to be noted that the LPA has a pre application response target to 20 days, and the response time of 6 days is well within this target, and was not a cause of delay to the applicant.

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.

Whilst South Holland District Council is committed to supporting advanced and high quality communications infrastructure, in this instance the siting and appearance of the proposal cannot be supported as it would represent an overly dominant, obtrusive and alien feature within the street scene, thereby resulting in unacceptable harm to the character, appearance and visual amenity of the locality. The proposal is therefore contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

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.

B]Conclusion

For the reasons outlined above, the proposal is considered to be contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

The recommendation is that the application be refused.