

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 14 April 2021

(Author: Lucy Buttery - Principal Planning Officer)

Purpose: To consider Planning Application H16-0207-21

Application Number: H16-0207-21

Date Received: 25 February 2021

Application Type: TELECOM DETERMIN.

Description: Proposed 20m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works

Location: Wygate Park Spalding

Applicant: Hutchison UK Ltd

Agent: WHP Telecoms Ltd.

Ward: Spalding Wygate

Ward Councillors:
Cllr R Gambba-Jones
Cllr C J Lawton

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H16-0207-21>

1.0 REASON FOR COMMITTEE CONSIDERATION

- 1.1 Significant number of objections received and the application raises issues which merit Committee consideration.

2.0 PROPOSAL

- 2.1 The application seeks determination as to whether the prior approval of the Local Planning Authority is required for the erection of a 20m high telecommunications monopole, wrapround cabinet at base and associated ancillary works at the corner of Wygate Park and Claudette Avenue, Spalding. The works are to facilitate 5G roll out in the area.

3.0 SITE DESCRIPTION

- 3.1 The application site is grass verge and lies close to the junction of Claudette Avenue on Wygate Park, Spalding. The character of the area is residential, with the road known as 'Wygate Park' being the principal road through the residential area. There are properties to the south beyond the grass verge and on the opposite side of Wygate Park. A footway is almost immediately adjacent to where the proposal would be sited.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Policy 2 - Development Management
Policy 3 - Design of New Development

National Guidance

National Planning Policy Framework (NPPF), 2019

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

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 No relevant history.

6.0 REPRESENTATIONS

6.1 Councillor Gambba-Jones - Objection (summarised)

- Site is very visually prominent over significant distances and on a major footway for residents of Wygate Park
- Visual impact for residents living in immediate vicinity of proposed structure
- No supporting information has been provided as to why Wygate Park in particular needs this installation in this location if the range of 5G masts are limited
- No shadow data has been provided

6.2 Councillor Newton - Objection (summarised)

- Concern re visual impact and at a height of 65 foot the mast will dominate the Wygate skyline
- Footpath and highway adjacent to site is very busy.
- Queries whether other locations were assessed
- Also queries whether any consultation was undertaken
- Concern re highway safety

6.3 Councillor Lawton - Objection (summarised)

- Concern re visual impact and at a height of 65 foot the mast will dominate the Wygate skyline
- Queries whether other locations were assessed
- Also queries whether any consultation was undertaken
- Concern re highway safety

6.4 Sir John Hayes MP - Objection (summarised)

- Appears to have been no consultation with local residents
- Out of character with the surrounding residential area and will be an incongruous structure blighting the landscape
- Concern re highway safety
- Industrial site would be better suited to this type of installation
- Concern regarding health implications of mast

6.5 LCC - County Highways

Does not wish to restrict the grant of permission.

6.6 Welland & Deepings Internal Drainage Board

The proposed telecom equipment appears to be within the Board's nine metre byelaw strip. Therefore, an application for a relaxation of the 9m byelaw should be submitted in advance of any works should planning permission be granted.

6.7 Public - 47 objections received (summarised)

- Impact on nature
- Potential for vandalism
- Should be located away from homes and play areas
- Wind noise from the mast
- Impact on view
- Disruption during construction
- Not adequately camouflaged
- No dimensions given for equipment cabinets
- Impact on house price
- Internet research shows that the criteria against which masts are assessed for health impact is not stringent enough
- A 5G proposal has been refused elsewhere in the district
- Query why masts like this aren't located in fields
- Vehicles speed along Wygate Park

7.0 **CONSIDERATIONS**

7.1 **Planning Considerations**

7.2 Principle

7.3 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).

7.4 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:

7.5 *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;

7.6 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.

7.7 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).

7.8 Officers also note Paragraph 116 of the National Planning Policy Framework (2019) (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.*"

7.9 Siting and Appearance

- 7.10 Paragraph 112 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 113 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."*
- 7.11 Paragraphs 124 to 132 of the NPPF provide advice on achieving well designed places. Paragraph 127 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).
- 7.12 In terms of its siting, the proposed monopole, at 20 metres in height, would be readily visible in the street scene and the scale is not comparable to any other structure or building in the vicinity. It would be visible at a distance on Wygate Park from a westerly direction and would be well above the tree line and roof line of properties in the vicinity. The mast would be sited almost immediately adjacent to a well-used footway 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 post boxes), it is considered that the proposed mast and associated cabinets would have a material adverse impact on the wider street scene due to them being an unduly dominant, obtrusive and alien feature within the street scene. In light of this, the proposal is considered to be unacceptable in terms of its siting and 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 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.
- 7.13 In terms of appearance, the proposed mast and associated cabinets are of a functional design and a typical appearance of such communications infrastructure. It would likely be impractical for them to be designed in a different way.
- 7.14 Other Matters
- 7.15 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.
- 7.16 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.
- 7.17 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.
- 7.18 Planning Balance
- 7.19 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.
- 7.20 It is considered that 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).

7.21 **Additional Considerations**

7.22 Public Sector Equality Duty

7.23 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.

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

7.25 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.

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

7.27 Human Rights

7.28 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).

7.29 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.

7.30 **Conclusion**

7.31 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).

8.0 **RECOMMENDATIONS**

8.1 **Refuse permission for the reason listed at Section 9.0 of this report.**

9.0 **REASONS FOR REFUSAL**

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).

2. The determined plans are:

Site Specific Supplementary Information
Declaration of Conformity with ICNIRP Public Exposure Guidelines
Developers Notice to Highways
Developers Notice
Application Form
302 Proposed H3G Antenna Schedule & Line Configuration
100 Existing Site Plan
150 Existing Elevation A
260 Proposed H3G Elevation
210 Proposed H3G Site Plan
002 Site Location Plan
305 Equipment Schedule & Support Structure Details

3. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. However, the issues are so fundamental to the proposal, due to the harm which has been clearly identified within the reason(s) for the refusal, that approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

Background papers:- Planning Application Working File

Lead Contact Officer

Name and Post:	Richard Fidler , Development Manager
Telephone Number:	01775 764428
Email	rfidler@sholland.gov.uk

Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title

