

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 H16-0208-21

Application Number: H16-0208-21

Date Received: 25 February 2021

Application Type: TELECOM DETERMIN.

Description: Proposed 18m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works

Location: Birch Grove Spalding

Applicant: Hutchison UK Ltd

Agent: WHP Telecoms Ltd.

Ward: Spalding St Pauls

Ward Councillors: Cllr R A Gibson
Cllr G P Scalese

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

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H16-0208-21>

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 This application seeks determination as to whether the prior approval of the Local Planning Authority is required for the erection of a 18m high telecommunications monopole, wrapround cabinet at base and associated ancillary works at the corner of Birch Grove and Matmore Gate, Spalding, to facilitate 5G roll out in the area.

3.0 SITE DESCRIPTION

- 3.1 The site is within defined settlement limits, on grassed land close to the junction at Birch Grove and Matmore Gate. A footway is present at the edge of the grassed area, and there are properties to the south and school playing fields to the north.

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 LCC - County Highways & SUDS Officer (Summarised)

No objection.

"The proposal is for a proposed 18m phase 8 monopole wrapround cabinet at base and associated ancillary works and it does not have an impact on the Public Highway or Surface Water Flood Risk. The monopole and cabinets have been set back which does not impede visibility at the junction and therefore, it is considered that this proposal will not have an adverse impact on highway safety"

6.2 SHDC - Environmental Protection Officer

No comments or objections.

6.3 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
- Industrial site would be better suited to this type of installation
- Concern regarding health implications of mast

6.4 Public - 15 objections received (summarised)

- Risks to public health.
- Risks to wildlife health.
- Mast will dominate skyline and does not blend in with adjacent trees.
- No amount of camouflage would adequately address the height of the mast.
- Equipment should be green not grey.
- Will diminish the visual aspect of the adjacent Coronation Channel Conservation Area.
- Mast is close to schools with a total of 2000 pupils.
- Noise from mast from wind and humming from equipment.
- Masts should support all networks to avoid proliferation.
- Highway safety.
- Impact on pedestrians.
- Disturbance during construction / maintenance.
- Why can't the mast be sited in fields?
- Springwell Academy not consulted prior to submission of application.

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 18 metres in height, would be visible in the street scene and the scale is not comparable to any other structure or building in the vicinity, being above the tree line and roof line of properties in the vicinity. However, it is considered that the applicant has attempted to minimise the visual impact of the mast and cabinets by siting them approximately 0.25 metres from the 2.3 metre high chain-link fence to the rear of the grassed area and against the backdrop of adjacent/nearby trees to the north and east. They would be 3.2 metres at the nearest point from the footway and there are also existing items of street furniture in the vicinity (street lamps and road signs) which form part of the street scene. In the context of this, it is the view of officers that the proposal would not materially adversely impact the character and appearance of the area.

7.13 In light of the above, the proposal is considered to be acceptable in terms of its siting and therefore in accordance with 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.

- 7.14 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.
- 7.15 Other Matters
- 7.16 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.
- 7.17 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.
- 7.18 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 lowest level of impact on amenity, whilst still being sited in a location that maximises coverage for the area without duplication of range.
- 7.19 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.
- 7.20 Planning Balance
- 7.21 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.
- 7.22 It is considered that the proposal, by virtue of its siting, would represent an acceptable attempt to minimise the impact of the features within the street scene. Accordingly, officers are of the view that the proposal would not result in a material adverse impact on the character, appearance and visual amenity of the surrounding area, and that the proposal is in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).
- 7.23 **Additional Considerations**
- 7.24 Public Sector Equality Duty
- 7.25 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.

- 7.26 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.27 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.
- 7.28 It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.
- 7.29 Human Rights
- 7.30 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).
- 7.31 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.
- 7.32 **Conclusion**
- 7.33 For the reasons outlined above, the proposal is considered to be acceptable in terms of its siting and appearance when assessed against Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

8.0 RECOMMENDATIONS

- 8.1 Approve subject to conditions in Section 9.0 of this report.

9.0 CONDITIONS

1. (a) The development must be carried out within a period of five years from the date this application for determination was received.
(b) The development must be carried out in accordance with the information contained in the application.

Reason: As required by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order or Statutory Instrument revoking and re-enacting that Order).

2. The development hereby permitted shall be carried out in accordance with the following approved plans:
- Site Specific Supplementary Information
 - Covering Letter
 - Declaration of Conformity with ICNIRP Public Exposure Guidelines
 - Development Notice to Highways
 - Developers Notice
 - Application Form
 - 002 Site Location Plan
 - 302 Proposed H3G Antenna Schedule & Line Configuration
 - 150 Existing Elevation A
 - 100 Existing Site Plan
 - 260 Proposed H3G Elevation
 - 210 Proposed H3G Site Plan
 - 305 Equipment Schedule & Support Structure Details

Reason: For the avoidance of doubt and in the interests of proper planning.

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

