

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	H16-0266-21	Applicant:	Hutchison UK Ltd
Proposal:	Proposed 15m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works		
Location:	Hawthorn Bank Spalding		
Terminal Date:	7th May 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development

National Guidance

National Planning Policy Framework 2019

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

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	2
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SPALDING AND DISTRICT CIVIC SOCIETY	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	1	0
RESIDENTS	7	0	0	2

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, wraparound cabinet at base and associated ancillary works at the corner of Hawthorn Bank and The Parkway, Spalding.

The 2 no. H3G cabinets and G-100876 cabinet indicated on the submitted drawings 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 comprises part of a wide footway that sits on the corner of Hawthorn Bank and The Parkway. There are residential properties on the opposite side of these roads (east and south) and further west off Rembrandt Way. There is a small area of grassed land to the north, beyond which is a residential property set within a large plot. The boundary of this property is hedged and within the curtilage is well established vegetation and a number of trees (some of which are protected by Tree Preservation Orders). Other street furniture, such as road and street signs and telegraph poles, are noted in the vicinity.

History

No relevant history.

Consultation Responses

Cllr Newton

Residents have raised several issues with me. Mainly was to how obtrusive the structure and cabinets would be in relation to the present street scene. It does look as though the applicant company has not considered how prominent their proposals are, particularly with siting close to the footpaths. Whilst it is noted there are trees to the north of the site, they are not in the ownership or control of the applicants and may be removed. There are a high number of single storey dwellings in this location and the surrounding area is primarily residential. There are a lot of residents in this area which use mobility's vehicles and naturally, with a school nearby, lots of people using push chairs and prams, so additional signs /structures in the footpath are not welcome. True to say extensive building is still going on a short distance away as the crow flies. In addition, there is a primary school within a couple hundred metres of the junction with approx. 400 children on roll. This junction also serves as a link to taking people from the development within the area either North towards Boston or South towards Peterborough and Stamford. A traffic count would indicated 1000s of vehicles, including heavy commercial traffic using Hawthorn Bank as a short cut to avoid the town. Residents are concerned that such an incongruous structure would draw drivers attention away from the road and contribute to poor road safety. Nearby residents would be faced with looking at the huge pole daily. There does not seem to be any supporting evidence that the applicants have looked at other sites which would have less of an impact on residents. They understand that LCC have a programme of rolling out improvements to the network but ask that the Council do not support this application and suggest the applicants look for an more suitable, less contentious site.

Cllr Cronin

The same considerations around the visual impact this will have on the surroundings as applied to the mast applications at Claudette Avenue and Birch Grove should also be applied to this application.

LCC - County Highways & SUDS Officer (Summarised)

No objection.

"The proposal is for a proposed 18m phase 8 monopole wraparound cabinet at base and associated ancillary works and it does not have an impact on the Public Highway or Surface Water Flood Risk."

Requests a condition that no part of the development be commenced before works to improve the public highway (by means of relocating the existing street sign known as The Parkway) have been certified complete by the Local Planning Authority.

Spalding and District Civic Society

We appreciate that the applicant has recognised the importance of the conservation area and has discounted sites within the conservation area. Whilst the society does not wish to see improvements in telecommunications being inhibited, we ask whether it might be possible for the applicant to confirm whether all alternative options have been explored including, but not limited to the possibility of using lower monopoles that would better match the scale of street lighting and trees in the surrounding area. In doing so we refer to policy 2 of the South East Lincolnshire Local Plan which states that consideration should be given to size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses. At 18m the proposed structure will dominate the street scene and be visible for some considerable distance. We feel that a visual impression of the proposed structure should be provided along with an assessment of impact on the visible skyline for surrounding residents. We refer to the Site Specific Supplementary Information provided by the applicant, in particular the last sentence of the extract from Paragraph 113 Chapter 10 of the National Planning Policy Framework:- "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." The proposal put forward by the applicant makes no attempt to camouflage the design of the pole or the cabinets and we therefore urge that the applicant revisits the application accordingly.

SHDC Environmental Protection (contaminated land)

No objection.

Public - 7 'objections' and 1 'comment' received (summarised)

- Concern re highway safety
- Query the need to erect the structure near to houses when surrounded by fields in the area
- Impact on outlook and quality of life
- Impact on visual amenity; height and size out of keeping with the residential nature of the area; prominent position
- Impact on privacy
- Concern re safety of pole in high winds
- Impact on house prices
- Risk to public health and that of wildlife
- Queries as to why other options were discounted
- Potential to compromise safety of those employed to maintain trees closeby; potential for loss of tree

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 proposed monopole has been reduced in height during the course of the application from 18m to 15m. It does not exceed the height 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 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."*

The proposed cabinets that would be sited adjacent to the mast and base cabinet (2 no. H3G cabinets and G-100876 cabinet, as indicated on the submitted drawings) 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 and Appearance

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."*

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).

In terms of its siting, the proposed monopole, at 15 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, being above the trees and roof line of properties in the vicinity. The 'wraparound cabinet at base' would be approx. 1.6m high, 1.8m wide and 0.75m deep. This would be sited just outside the maximum 15m Root Protection Area of the preserved trees to the north.

Whilst it is accepted that there is other street furniture in the vicinity (such as street lights, road signs and telegraph poles), it is considered that the proposed development 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. The proposal would sit in a prominent position within a large footway at what is, at times, a very busy junction due to the proximity to the nearby primary school. It would therefore be visually obtrusive to pedestrians and motorists alike.

Furthermore, although it would be sited at the edge of the footway, it would appear visually detached from any other existing feature on the street scene due to the grassed area to the north between the site and property boundary. In addition, the site is in reasonably close proximity to preserved trees which have, in part, been protected for their visual amenity value. The proposed development would negatively impact this.

In terms of longer views, the mast would likely be visible up to approx. 160m west on The Parkway and would therefore be visually prominent when viewed from that direction. However, the mast would be less prominent at a distance on Hawthorn Bank as it would be obscured by existing trees and vegetation and would be against the backdrop of the protected trees to the rear.

Taking all of the above into account, the proposal is considered, on balance, 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.

In terms of appearance, the proposed mast and base cabinet 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.

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.

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. However, for the reasons outlined above, the siting is not considered to be acceptable by the LPA.

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.

Concern has been raised regarding the safety and the mast in high winds and the potential for it to topple. Whilst it is not considered that this is a relevant material consideration for the purposes of the consideration of this application, if such health and safety matters were considered to be a relevant material consideration it is considered in light of the information in front of the Council as to the risk and likelihood of this occurring officers would remain satisfied that this would not be a material consideration of sufficient weight to preclude the granting of permission if that were to be the recommendation.

Other concerns relating to impact on house prices, outlook and privacy cannot be considered as part of this application.

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.

It is considered that the proposal, by virtue of its siting, would represent an overly dominant, obtrusive and alien feature within the street scene and would negatively impact the visual amenity value of protected trees. 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).

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.

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.