

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0349-22 **Applicant:** C K Hutchison Networks (UK) Ltd

Proposal: Proposed 15.0m Phase 9 super slimline monopole & associated ancillary works

Location: Wygate Park Spalding

Terminal Date: 26th May 2022

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	1	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	1	0	0	0
RESIDENTS	20	0	0	0

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 15m high Phase 9 super slimline monopole & associated ancillary works at the corner of Wygate Park and Claudette Avenue, Spalding. 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.

Site Description

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.

History

H16-0472-21 - Proposed 15m Phase 8 monopole C/W wraparound cabinet at base and associated ancillary works - refused June 2021

H16-0207-21 - Proposed 20m Phase 8 Monopole C/W wraparound cabinet at base and associated ancillary works - refused April 2021

Both applications refused for the following reason:

"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)."

Consultation Responses

Cllr Gambba-Jones (objection summarised) - Little or no evidence to substantiate the claim that the equipment is unlikely to have any material impact on the local area. Residential amenity of residents in the immediate area will be adversely affected, because of the visual impact of the monopole. The monopole at 15m in height is well in excess of any rooftop, treetop, or lamp post in the immediate area. It is also topped by a cylindrical object of unspecified dimensions and is completely out of keeping and alien to a wholly residential area. Applicant has made no efforts to meet the requirements of NPPF paragraph 115, which states: Where new sites are required (such as for new 5G networks) equipment should be sympathetically designed and camouflaged where appropriate. Trees outside of applicants control cannot be relied upon as camouflage. Highest part of monopole will be visible from frontages and/or rear gardens of several properties. The applicant has given the visual impact on residents little consideration when assessing the suitability of this site, focussing predominantly on the potential for impact on the highway. Copy and paste errors in submission. The overall development as proposed remains significant despite the removal of one cabinet at the base of the monopole. Dimensions not readily provided. The proposed works WILL BE TO THE VISUAL DETRIMENT OF THE SURROUNDING AREA. It would also RESULT IN A DEMONSTRABLE HARM to the surrounding area. The application site could hardly be more prominent when seen from the road itself. It is highly visible over significant distances from both directions as one approaches the Claudette Avenue junction. Finally, residents also have every reason to be extremely concerned about the potential for changes to be made to any installation should permission be granted. Government announced early

last year its intention to permit a 20% increase in the height and width of existing 5G installations without the need for further planning permission. Once the principle of development is established, either by breaking ground, or by building something as intended - the applicant originally wanted the monopole to be 20 metres in height - then anything becomes possible. For all of the above reasons, it is requested that, as per the previous refusal, officers refuse this application.

The Rt Hon Sir John Hayes CBE MP - I was disappointed to learn from a number of my constituents that a third planning application has been submitted for the erection of a 15m Phase 9 monopole and associated ancillary works at Wygate Park, Spalding, albeit a slimline monopole. Again, there appears to have been no consultation with local residents by the applicant, those that will be most affected by this monstrosity. My views remain completely unchanged to my earlier objections to the previous applications for Wygate Park and for Birch Grove, Spalding. These masts are completely out of character with the surrounding residential area and will be an incongruous structure blighting the landscape, causing loss of amenity to the neighbouring properties and beyond. Even though slimmer than the two previous applications, it will stand above the housing and treeline which may have provided some screening. Clearly, a more industrial site would be better suited to this type of installation. I understand the cabinets at ground level will stand almost 2m tall so, along with the mast, could restrict visibility at the junction of Claudette Avenue. My constituents have also raised concerns about the health implications of this mast, being less than 100m from Spalding Primary School and two children's play areas. I would, therefore, be grateful if you could treat my letter as an objection to this proposal and I also request that the application be determined by the Planning Committee.

LCC Highways/SUDS - Does not wish to restrict the grant of permission. 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 is acceptable and accordingly, does not wish to object to this planning application.

Welland and Deepings IDB - 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.

SHDC Environmental Protection (noise and odour) - No objection.

Public (20 objections received, summarised) -

- Same points apply as to previously refused proposals
- Overshadowing of properties from pole
- Alien feature in street scene; will be conspicuous and an eyesore; potential to attract graffiti and vandalism
- Concern regarding highway safety due to proximity to junction
- Impact on traffic during construction and future maintenance works
- Slimline pole will still be huge; no change to situation since previous refusals
- Adverse impact on pleasant, green area
- Majority of residents do not want or need this installation as already have excellent phone coverage and fast broadband
- Impact on amenity of residents
- Impact on health and mental well-being
- Concern over health impacts of 5G
- Set a precedent for further masts being installed nearby
- The application refers to site as an existing telecommunications site - there is no evidence of any telecommunications equipment at the proposed site unless the reference is to underground cables passing below
- Should be set away from a residential area
- Mast would be better located on route of the Spalding Western Relief Road
- Close proximity to Spalding Primary School
- Noise pollution from cooling fans and wind noise
- Trees should not be regarded as a permanent fixture in trying to blend the mast in as they can be removed or reduced in size
- Same information copied and pasted from previous applications
- Plans do not correctly represent the amount of foliage around the site
- Concern over setting precedent to add additional equipment to site
- Potential for impact on wildlife

- Covenants for private property say that cannot build past front elevation
- Applicant does not support their application with sufficient evidence to justify the development (Para 115 of NPPF)
- Proximity to IDB pipe
- Concern re structural integrity of foundations for a mast due to Fenland soil conditions

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 and Appearance

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).

Since the previous application was refused, the proposal has been revised from a 15.0m Phase 8 monopole with wraparound cabinet at base, to a 15.0m Phase 9 super slimline monopole with no wraparound cabinet at base. The monopole is approximately 500mm narrower at its widest point

compared to that previously proposed, now being a maximum of around 500mm in width. Notwithstanding this alteration and the loss of the wraparound cabinet, the monopole would still 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 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 proposal, even reduced in height, 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 23rd March 2022, a response was provided to the applicant by the LPA on 28th March 2022, with the application subsequently being submitted on 31st March 2022.

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.

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.