DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-0472-21**	**Applicant:**	**Hutchison UK Ltd**
Proposal:	Proposed 15m phase 8 monopole C/W wrapround cabinet at base and associated ancillary works		
Location:	Wygate Park Spalding		
Terminal Date:	24th June 2021		

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 2019

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	1	1
OTHER STATUTORY BODIES	2	0	0	0
RESIDENTS	21	1	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 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.

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

H16-0207-21 - Proposed 20m Phase 8 Monopole C/W wrapround cabinet at base and associated ancillary works -refused April 2021 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 - Objections remain same as previous application on this site. At 15m monopole remains a dominant and overbearing feature. It will be seen from at least 15 rear garden areas at all times of the year an aspect of the visual impact applicant has ignored in their submission. At least four properties will be visually impacted by whole installation to their frontage each time they exit their properties creating an unacceptable negative impact on their residential amenity. The wider residential and green space amenity of the Wygate Park community will also be negatively impacted by the installation of this alien and overbearing structure. Wygate Park is designed to provide a linear park effect, with wide green verges and well planted raised beds along this side of the road. Dwellings are protected to some extent by this landscaping, from the normal sights and sounds of a well used residential distributor road. A 50 foot monopole, with a range of ugly industrial cabinets, two with dimensions close to the size of garden fence panels, mark the route of that road. This application must also be refused, as it will have a detrimental and unacceptable impact on the visual, residential and green space amenity of the Wygate Park community.

Cllr Newton - When the Planning Committee considered the previous application for 20m pole, the Planning Officer clearly indicated that the applicant company had not sought pre-application advice. He did say he would advise them that the Planning Officers would be willing to discuss the needs of the applicants and would be happy to see if they could help identify a more suitable location. I cannot see anything in the papers which indicate to me that the applicants have gone down that route and that concerns me. Residents, and members of the planning committee said at the last meeting they did not consider the proposals, which included a 20m high pole, acceptable in that particular location. I cannot see anything in the new application which leads me to conclude that the applicants have addressed the reasons for refusal for the previous application No. H16-0207-21. The reasons still pertain even with a reduction in height to 15m. Residents have asked that, on their behalf, I re-affirm my observations. Including concern re visual impact that a mast even at 15m will dominate the Wygate skyline, footpath and highway adjacent to the site is very busy, query whether other locations were assessed, queries whether any meaningful consultation has been undertaken and, despite observations from Highways, remain concerned re. highway safety.

The Rt Hon Sir John Hayes CBE MP - I note that a new planning application has been submitted for the erection of an 15m monopole C/W wraparound cabinet at base and associated ancillary works at Wygate Park, Spalding. I am disappointed that the location remains unchanged for this latest

application; merely the height of the mast has been reduced to 15m. Clearly, this minor amendment does not allay the fears and concerns of my constituents who live in proximity to the proposed site. I shared my constituents' view that the mast is 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. The location is on a major footway used by the residents of Wygate Park and a busy road serving the large residential area of Spalding, being close to the junction of Claudette Avenue it could reduce visibility for road users. I remain of the view that a more industrial site would be better suited to this type of installation. My constituents are still concerned about the health implications of this mast, not only from any potential exposure to radio frequency fields, but the impact on their mental health of having a pole situated nearby. Finally, this 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 SE. Lincolnshire Local Plan (2019).' I would therefore, be grateful if you could treat my letter as an objection to this proposal.

Welland and Deepings IDB - Comments made on previous application still stand - "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 (contaminated land) - No objection.

LCC Highways/SUDS - Does not wish to restrict the grant of permission. The monopole, wraproundcabinet and associated ancillary equipment proposed in this application would be sited outside of the junction visibility splay requirements prescribed in Manual for Streets and would not therefore prevent a driver leaving Claudette Avenue from having sufficient visibility of any vehicle that may be approaching the junction from the driver's left side. Therefore, 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 have an unacceptable impact upon highway safety and does not wish to object to this planning application.

Public (21 objections received, summarised) -
- Reduction in height does not mitigate previous concerns; previous refusal reason still applies; reducing the height will make the antenna more obtrusive
- Mast will dominate skyline; out of character with the area
- Concern re highway/pedestrian safety
- Overshadowing
- Impact on visual amenity/views
- Noise impact
- Monopole is much taller than street furniture, roof tops and trees which are being used for comparison
- Made aware of the application by another resident rather than official means
- No indication of timescale applicant allowed for pre-application response; details of pre-application discussions should be made known; no indication that offer of meeting between council and applicant has been taken up
- Insufficient public consultation on part of applicant
- Applicant previously stated that a short mast was not suitable or possible
- No/insufficient consideration/discussion of alternative locations
- Area is as densely populated as other discounted locations
- Overall plan for rollout should be provided
- No need for 5G in this area
- Concern re health impact on residents and wildlife
- Impact of construction on residents (noise, fumes, dust etc.)
- Impact on property values

Public (1 comment in support, summarised) -
- High speed communications are essential with some areas of the community unable to receive 2mb internet, making working from home, home schooling and other such activities impossible
- Statement that BT are due to roll out new super fast services in the area has been stated as untrue by BT OpenReach

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 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."*

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, even at a reduced height of 15m, would be readily visible in the street scene and the scale is still 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 still 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 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.

In terms of appearance, the proposal is of a functional design and a typical appearance of such communications infrastructure. It would likely be impractical for this piece of infrastructure to be designed in a different way. If permission were to be forthcoming, a condition could be imposed requiring the structure and base cabinet to be green in colour to improve the visual appearance.

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.

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 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).

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

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).

The recommendation is therefore for a delegated refusal.