

DECISION DELEGATED TO DEVELOPMENT MANAGER
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Application No:	H16-0473-21	Applicant:	Hutchison UK Ltd
Proposal:	Proposed 15m phase 8 monopole C/W wrapround cabinet at base and associated ancillary works		
Location:	Birch Grove 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	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	1	0	0	0
RESIDENTS	10	0	0	0

<u>CASE OFFICER ASSESSMENT</u>

Proposal

This 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, wraparound cabinet at base and associated ancillary works at the corner of Birch Grove and Matmore Gate, Spalding.

Site Description

The application site is grass verge that lies close to the junction of Birch Grove and Matmore Gate, Spalding. The character of the area is predominantly residential, with properties located to the south and, further away, to the north-east. A footway is present at the edge of the grassed area, which continues down Birch Grove. There are school playing fields to the north.

History

H16-0208-21 - Proposed 18m Phase 8 Monopole C/W wraparound 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

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 Birch Grove, Spalding. I am disappointed that the location remains unchanged for this latest application; merely the height of the mast has been reduced by 3m. Clearly, this minor amendment does not allay the fears and concerns of my constituents who live in proximity to the proposed site. As stated in my initial objection to the earlier application, the mast remains completely out of character with the surrounding area, which is predominantly residential and green open space. Even at 15m tall, the mast will be an incongruous structure blighting the landscape, causing loss of amenity to the neighbouring properties and beyond. Surely, 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. I would therefore, be grateful if you could treat my letter as an objection to this proposal.

LCC Highways/SUDS - Does not wish to restrict the grant of permission. 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. 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.

SHDC Environmental Protection (contaminated land) - No comments or objections.

Public (10 objections received, summarised) -

- Pole and cabinets have not been changed from grey to green
- Unsightly; out of keeping with surrounding area; impact on visual amenity
- Trees are not the height stated; trees and vegetation will not adequately screen the mast; how will it be ensured that the trees are never cut down
- Other areas within Spalding that are not residential where the mast could be located
- Close to three schools
- Health and safety concerns (humans and wildlife)
- Noise impact
- Potential for anti-social behaviour/vandalism and to use apparatus to access school field
- Highway safety concerns
- Steps should be taken to ensure that the base height or surrounding ground level are not raised
- Query re who owns the land
- Traffic associated with erection and servicing of equipment will further impact the condition of the Matmore Gate road surface

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 not comparable to any other structure or building in the vicinity. Although it would be seen against the backdrop of adjacent/nearby trees to the north and east, it would be greater in height than any of these trees and would be far above the ridge line of dwellings. Furthermore, it would be in a visually prominent location when exiting the residential estate to the south. Whilst it is accepted that there is other street furniture in the vicinity (such as street lights and road signs), 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.