DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-1031-21**	**Applicant:**	**CK Hutchison Networks (UK) Ltd**
Proposal:	Proposed 15.0m Phase 8 Monopole C/W wraproundCabinet at base and associated ancillary works		
Location:	The Parkway Off Hawthorn Bank Spalding		
Terminal Date:	25th November 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 2021

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

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	1	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	1	0	0	0
RESIDENTS	29	1	0	0

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, wraproundcabinet at base and associated ancillary works on The Parkway, Off Hawthorn Bank, Spalding.

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 site is an area of grass verge and is highway land owned by Lincolnshire County Council. The site is within a residential area with properties on the opposite side of the road and extending in either direction east and west. There is an area of public open space to the north, beyond which there is further housing. There are a number of trees along either side of this particular part of The Parkway. Other street furniture, such as streetlights, a bus stop and bin were noted in the vicinity.

Relevant History

H16-0266-21 - Proposed 15m Phase 8 Monopole C/W wraproundcabinet at base and associated ancillary works at corner of Hawthorn Bank and The Parkway - 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 Newton - I have been contacted by several residents who have asked me to voice their concerns. Many point out the Air Ambulance uses the green area here when it gets urgent calls in this part of Spalding. I believe it has landed here 3 times in the last year, and maybe more. If there was a Pole nearly 50 feet high that could inhibit, or even stop the air ambulance from using this site. Residents at the nearby bungalows would have a restricted view when trying to cross the road to nearby but stop, and people exiting the site at the nearest 3 bungalows in vehicles would not be able to see other vehicles travelling from the West as they would be hidden by the cabinets. Thus having a severe adverse affect on their safety, visual aspect and reduce their wish to go out. Most believe the same comments apply to this application as the earlier one H16-0266-21 and ask that the Council REFUSE the Application for the following reasons. The proposals, by virtue of the siting, would represent an overly dominent, obtrusive and alien feature within the streen scene and would negatively impact the visual amenity value of adjoining green area and trees. This is well used by residents who are encouraged to take regular exercise. Accordingly, the proposal would result in unacceptable harm to the character, appearance and visual amenity of the surround area which is contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan (2019). I believe it should be possible to find a more suitable site in an Industrial type location away from a prime residential area which has a huge amount of traffic using The Parkway daily in addition to the 100s of school children.

The Rt Hon Sir John Hayes CBE MP - I have recently been contacted by a number of constituents regarding the above planning application for the erection of a 15m Phase 8 monopole C/W wraparound cabinets at base and associated ancillary works at The Parkway, Spalding. This is the third application for one of these unsightly masts in Spalding and again I am hearing that there appears to have been no consultation with local residents. My views remain completely unchanged to my earlier objections to the previous applications for Wygate Park and 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. It will stand above the housing and treeline which may have provided some screening, surely a more industrial site would be better suited to this type of installation. I have also been advised that the site is adjacent to the green area which has been used by the air ambulance on three occasions in the past year. Understandably, residents are concerned that the monopole could prohibit the area from being accessible for the air ambulance. My constituents have also raised concerns about the health implications of this mast, especially as St Johns Primary School is nearby. 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 - Does not wish to restrict the grant of permission. The proposal is for monopole and cabinets in the highway verge and it does not have an impact on the Public Highway or Surface Water Flood Risk.

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

Public (29 objections received, summarised) -

- Reason for refusal for previous application at junction of Hawthorn Bank continues to apply
- Adverse impact on character and appearance of area; trees adjacent site are deciduous and therefore mast will be highly visible for large periods of the year
- Visual amenity of more properties will be impacted than for the previous proposal on Hawthorn Bank
- Concern re impact on health of public (physical and mental), nearby school children, wildlife and trees
- Concern re highway and pedestrian safety; Impact on drivers line of sight across open space which is regularly used by children and impact on safety of those using bus stop/crossing road from bus stop
- Overshadowing from mast
- Ancillary boxes are a blank canvas for graffiti
- Mast is in potential flight path of Air Ambulance that has landed on the open space previously
- Address and postcode on application form incorrect
- No consultation with neighbourhood prior to application being submitted
- Maintenance and mast will require frequent blockages to the road network
- There are other better locations for development such as this
- The structure and its boxes would pose a risk to people by way of misadventure
- Devaluation of properties; houses will become difficult to sell

Public (1 comment in support received, summarised) -
- Internet service terrible in this area
- Fast internet essential for future with so many people working from home
- Will bring more choice of internet providers

A petition signed by 44 residents has also been submitted in objection to the application.

A separate objection has been submitted by Leiden Fields Management Company Limited, which is signed by 32 people.

Planning Considerations

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."*

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 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).

The proposed monopole, at a height of 15m, would be readily visible in the street scene and the scale is not directly not comparable to any other structure or building in the vicinity, being above the trees and roof line of properties in the vicinity. Being positioned forward of the trees and on the open grass verge between the footway and carriageway would make it unduly prominent, and being in very close proximity to a bus stop and reasonably well used footway would make it visually obtrusive to pedestrians, as well as motorists using The Parkway. Whilst it is accepted that there is other street furniture in the vicinity and the proposal has been moved away from a very visually prominent position on the junction of The Parkway and Hawthorn Bank, it is still considered that it 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 and would be an incongruously hard form within an area which is highly verdant, thereby resulting in unacceptable harm to the character, appearance and visual amenity of the locality.

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 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 and that of wildlife 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 potential for impact on the health of the trees. Based on an estimation of the trunk width and Root Protection Area (RPA) of the closest tree, it is highly likely that the proposal does not fall within the RPA.

The following are also concerns that cannot be considered as part of this application:
- Overshadowing from mast
- Impact on house prices and saleability
- Vehicles associated with maintenance of mast blocking road
- The structure and its boxes posing a risk to people by way of misadventure; blank canvas for graffiti

It is noted that Locks Farm is referenced in the site address on the application form and the postcode appears to be incorrect. This has been treated as an error and the correct address used.

There is no specific requirement for applicant's to undertake community consultation with proposals such as this.

The matter of hindering the air ambulance landing on the adjacent public open space has not been explored further given the intention to refuse on other grounds.

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 and would be an incongruously hard form within an area which is highly verdant, 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.