DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-1075-21**	**Applicant:**	**CK Hutchison Networks (UK) Ltd**
Proposal:	Proposed 16.0m Phase 8 Monopole C/W wraproundCabinet at base and associated ancillary works		
Location:	West Elloe Avenue Spalding		
Terminal Date:	10th December 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	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	7	0	0	1

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 16m high telecommunications monopole, wrapround

cabinet at base and associated ancillary works on West Elloe Avenue, 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 located at the eastern end of West Elloe Avenue, close to the 'twin bridges' across the River Welland. The premises of Enterprise vehicle rental are located to the north. To the south and further west are residential properties on West Elloe Avenue and adjoining roads. The full length of West Elloe Avenue is tree lined and has a reasonably verdant character. Street furniture, such as streetlights, telegraph poles and road signs were noted in the vicinity.

Relevant History

None.

Consultation Responses

Cllr Gary Taylor - Objecting to this application because of the location. This location is the entrance to Spalding on a residential street. This type of structure is more suitable to a more industrial location.

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

LCC Highways/SUDS - No response received.

Public (7 objections/comments received, summarised) -

- Concern re impact on public health, wildlife and trees
- Impact on highway safety
- Adverse visual impact
- Not in keeping with residential nature of area
- Will dominate skyline
- Such applications have been refused in other residential areas of Spalding
- Installation of this nature could be more appropriately sited in an industrial area
- Noise impact of equipment
- Impact of ground works on tree roots and tree stability
- Impact on property values and saleability
- Residents should be given a reduction in Council Tax if proposal permitted
- Will set precedent for other similar development
- Construction and maintenance of will cause congestion
- Development description not clear enough; many do not realise it is a phone mast

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 16m, 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 and other buildings in the vicinity. Furthermore, it would be in a visually prominent location coming from the 'twin bridges' across the River Welland onto a well-trafficked road into town. Whilst it is accepted that there is other street furniture in the vicinity, it is considered that the proposal 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 addition, the site is in very close proximity to two established trees and very likely falls within at least one of their Root Protection Areas. These trees have a positive impact on the visual amenity of the area. No Arboricultural Impact Assessment or Method Statement appears to have been undertaken/produced to establish whether the siting of the development in this location could acceptably coexist with the adjacent trees without resulting in any adverse harm to them or need to remove them. In the absence of this information being submitted with the application, and for these time limited applications, there has been insufficient time to request and consider this information, Officers have had to conclude that insufficient information has been submitted to demonstrate the siting of the development would not result in adverse harm to the character and appearance of the site and surrounding area.

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.

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.

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. It has also not been demonstrated that there would not be an adverse impact on the trees adjacent to the site. 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.