

ROCHDALE BOROUGH COUNCIL
TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78



APPEAL BY Cornerstone
APPEAL SITE: Land off Heights Lane, Rochdale
STATEMENT OF THE LOCAL PLANNING AUTHORITY

LPA REFERENCE: 22/01485/TELE
PINS REFERENCE: APP/P4225/W/23/3325785

1. INTRODUCTION AND BACKGROUND

1.1 This appeal is against the Local Planning Authority's (LPA) refusal to issue Planning Permission under Section 72 of the Town and Country Planning Act 1990 under application reference 22/01485/TELE '**Prior notification for the installation of a new 20m monopole tower to support 6 antennas, associated radio-equipment housing and ancillary development thereto**' which was refused by notice dated 12th January 2023

1.2 The application was refused by notice dated 12th January 2023 for the following reason:

- 1 *The proposed installation, by virtue of its height, siting and appearance, would represent an incongruous and dominant feature of the street scene in a greenspace corridor. Furthermore, no thorough justified information in relation to alternative ground or rooftop based sites has been provided as part of this proposal, required under paragraph 117 of the National Planning Policy Framework. The development would therefore result in unacceptable harm to character of the site and be contrary to policies P1, P3 and DM1 of the adopted Rochdale Core Strategy and the National Planning Policy Framework.*
- 2 *The height of the mast, combined with its position would result in a incongruous and intrusive feature, which would detract from views of Falinge Park from the east. As such, this would result in less than substantial harm to the setting of the Grade II Registered Falinge Park, a designated heritage asset. This harm has not been adequately justified or mitigated. No public benefits have been put forwards that would outweigh this harm. The development would therefore be an incongruous and harmful feature which would detract from the setting of the Park, and would conflict with the requirements of Policy P2 and DM1 of the Rochdale Core Strategy and Chapter 16 of the NPPF.*

2. SITE DESCRIPTION

2.1 The application site relates to the footway on the south eastern side of Heights Lane, located adjacent to Cronkeyshaw Common, north of Brownhill View and south of Casson Gate.

2.2 The area to the north of the site is characterised by residential development, to the east and west by the Greenspace Corridor and Grade II Listed Falinge Park located to the west. The site is located 100m from the Physical Regeneration area outlined for Inner Rochdale.

3. RELEVANT PLANNING HISTORY

3.1 None direct to this appeal

4. POLICY BACKGROUND

4.1 The relevant parts of the Development Plan are the adopted Rochdale Core Strategy which was adopted on the 19th October 2016; and the Rochdale Unitary

Development Plan which was adopted on 15th June 2006, specifically the policies contained within saved by a Direction of the Secretary of State, dated 13th May 2009 and retained upon adoption of the RCS.

- 4.2 The relevant policies contained within the adopted Rochdale Core Strategy are:

SO3 Improving design, image and quality of place

P2 Protecting and enhancing character, landscape and heritage

P3 Improving design of new development

DM1 General Development requirements

- 4.3 The relevant Saved UDP policies are:

G/D/1 Defined Urban Area

- 4.4 The National Planning Policy Framework (NPPF) is also a material consideration in respect of the appeal. It is noted the NPPF has been updated since the submission of this appeal. The Council's Statement of Case refers to the updated paragraph numbers rather than superseded ones.

5. GROUND OF APPEAL AND THE CASE FOR THE LOCAL PLANNING AUTHORITY

- 5.1 The purpose of this statement is to address the matters raised within the appellant's grounds of appeal, and accompanying documentation, which includes a Heritage Statement prepared by WSP.
- 5.2 It is disappointing to the LPA that the original application was not accompanied by a Heritage Statement and that this document has been submitted at appeal stage, in order for heritage considerations to be fully assessed. In addition to the pressure of resources this has placed upon the LPA, it has denied local residents the opportunity to comment on the Heritage Statement during the 21 day publicity period as part of the planning application.
- 5.3 It is highlighted to the Inspector, the applicant's original submission in document 'Supplementary Information' at Page 5, Section 3 states '*There are no townscape or cultural designations that affect the application site itself. However it is acknowledged to the west of the site location is the Grade II Falinge Park*'. As such, the applicant was aware Falinge Park was a Registered Park and Garden at the time of submission. Within such close proximity, and the appellant being a professional planning agent, the appellant would have been acutely aware the setting of Falinge Park would be affected and a material consideration in the planning balance, and therefore would require a Heritage Statement to be submitted. This Heritage Statement should have been provided at application stage, and not at appeal stage.
- 5.4 The LPA is aware that they did not request the Heritage Statement from the appellant on receipt of submission and validation of the application, however given the quick turnaround and nature of the time limited prior approval process, the LPA was unable

to ask the appellant for this information. The onus was on the appellant (then applicant) to submit the necessary supporting information.

5.5 It is noted the appellant's Grounds of Appeal define 'Streetpole' and 'Monopole' separately. Given the description of development is for a monopole, for clarity and continuity, the proposal will be referred to as a monopole for the purpose of this appeal.

5.6 The LPA will consider the appellant's submissions and respond to each reason for refusal in turn below.

6.0 REASON FOR REFUSAL 1

6.1 The appellant's grounds for appeal are that the proposal would not have any unacceptable visual amenity impact and would not be overly visible from key views and vistas.

6.2 The appellant demonstrates the proposed type of monopole would be the least harmful design available which would be able to provide a 5G mast coverage. Additionally the appellant suggests within their grounds of appeal, that a shared monopole would be of an even less desirable appearance. While the LPA would share the view the drawing of a shared mast as provided within the appellants grounds of appeal may be more visually inappropriate than the proposed monopole, this does not preclude the conclusion the mast would be visible from key views and vistas sited between a Registered Park and Garden and Cronkeyshaw Common; a Greenspace Corridor.

6.3 While the site is viewed from the east (looking west) along a backdrop of trees, when viewed from the footway along Heights Lane, the parcel of land the proposal is on is not within the backdrop of trees – Cronkeyshaw Common is flat open land. The monopole would be prominent in view for users of the common, and pedestrians and vehicles on Heights Lane. The appellant's grounds of appeal provides visualisations of the monopole proposed. None of the visualisations provided show how the proposal would appear when looking North or South along Heights Lane or when looking east, toward Cronkeyshaw Common. Image 1, provided within this statement, shows the view when looking south along Heights Lane. Attention is drawn to the flat, open land devoid of any boundary treatment and minimal street furniture along on the edge of the common, and how the proposed monopole, in addition to the proposed retaining wall and associated cabinetry would not assimilate well within this location, resulting in an incongruous appearance out of keeping with the immediate locality.

6.4 The visualisations provided by the appellant do not show the view when walking along the footway looking East toward Cronkeyshaw Common, nor does it visualise the impact of the proposed retaining wall, associated works and cabinetry and how this would be sited appropriately within flat open land, where existing street furniture is minimal, and additionally how this additional equipment associated with the works would be compatible within the sensitive setting of Falinge Park. Image 2 shows the view when looking East across the Common, and further embellishes the point raised by the LPA, that the proposal would not be compatible within its setting. While two trees are located north of the site the proposal would not be read as sited within group of trees, and the LPA do not consider this provides justification for the visual harm the proposal would incur.



Image 1: Looking south along Heights Lane. A red arrow points to the approximate location of the proposed monopole and equipment (Source, Google Maps 2024)



Image 2: Looking east across Cronkeyshaw Common. A red arrow points to the approximate location of the proposed monopole and equipment (Source, Google Maps 2024).

- 6.5 Policy DM1 of the Core Strategy requires all development proposals to demonstrate that they are of high quality design, that they enhance the quality of the area and are compatible with the surrounding land uses. In this case the proposed monopole, by reason of its siting in a prominent, open space location, and its design, will dominate the street scene and will appear incongruous with its location. Similarly, Policy P1 requires new development to improve the image of the borough, in particular by creating uncluttered public areas. The proposed monopole in this location within the Common and adjacent to the Registered Park and Garden conflicts with the aims and

objectives of P1 – it will add clutter to an open and attractive green space and will harm the image of the area rather than improve it as required by the policy.

- 6.6 Further explanation has been provided in relation to the alternative sites provided by the appellant, which were all shown to be discounted or dismissed. It is considered the scope of this search could be extended, with some more preferable locations sought in relation to the siting.
- 6.7 It is noted in Appeal Decision ‘APP/P4225/W/22/3297226’ (Rochdale MBC) the Inspector clearly states at paragraph 22 *‘The appellant has made reference to various social and economic benefits of the proposal. However, as consideration of this proposal is restricted to matters of siting and appearance, I have not taken these into account’*. The Council acknowledges that in reference to Reason for Refusal 2; the above wording is not relevant as the public benefits must be taken into account. However, the Council in relation to reason for refusal 1, considered in Section 6 of this statement of case, would ask the Inspector should apply the same view to this application. The proposed public benefits put forward (and as such considered further in Section 7) would not outweigh the visual harm proposed as a result of the development.

7.0 REASON FOR REFUSAL 2

- 7.1 The appeal statement is accompanied by a Heritage Statement which has been read in conjunction with the submitted appellants grounds of appeal.
- 7.2 The Council’s Conservation Officer has been consulted on the statement and their comments are provided in Appendix B. For completeness, the Conservation Officer’s original comments on the determined application are also attached in Appendix A.
- 7.3 The main point of dispute between the conclusions of the Heritage Statement provided by the appellant and the Conservation Officer’s response is the level of less than substantial harm. The Conservation Officer is of the view that the park includes the stone walls and the trees, and therefore should be taken into consideration when assessing the degree of harm upon these also. As such, the introduction of a new 20m high monopole in this location, directly opposite the heritage asset, would be an intrusive feature, which would be out of keeping with the historic and verdant character of Falinge Park and its setting.
- 7.4 Core Strategy Policy P2 aims to protect and enhance character, landscape and heritage; and seek to do this by integrating new development with natural features of the borough, and protect the borough’s heritage by conserving, enhancing and promoting key heritage assets, including designated assets such as registered parks. As referenced earlier within Section 6 of this statement, Core Strategy Policy DM1 also requires all development to be of a high quality design and enhance the quality of the area. The proposal’s siting and appearance would not conserve, enhance or promote the heritage asset, nor the quality of the area. Image 1 shows the close proximity of the park in context with the proposal site, including the wall and the trees of which contribute to the park’s significance.
- 7.5 Paragraph 205 of the NPPF states ‘When considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to

substantial harm, total loss or less than substantial harm to its significance'. In this paragraph the NPPF is stating that the asset's conservation should be given great weight in the decision, regardless of the level of harm incurred.

- 7.6 For the reasons above, and detailed further within the Conservation Officer's appeal consultee response (attached at appendix B), it is considered that the proposal would result in less than substantial harm to the significance of the designated heritage asset. This harm is considered to be greater than the negligible level of harm identified within the appellant's heritage statement. In accordance with NPPF paragraph 206, any harm requires clear and convincing justification. Where a proposal would result in less than substantial harm, and this harm should be weighed against the public benefits of the proposal.
- 7.7 Therefore the key point for consideration is whether the less than substantial harm is outweighed by public benefits, as stated in paragraph 208 of the NPPF.
- 7.8 The appellant has provided a selection of alternative sites. The alternative sites provided are limited, and have been discounted for operational reasons, some of which would be in a preferable location in relation to the proximity of heritage assets. The alternative locations provided are not exhaustive in scope, and it is not considered the proposal would outweigh the less than substantial harm caused to the heritage asset in this instance.
- 7.9 The public benefits proposed by the appellant are, in summary, providing connectivity (including 5G), and how this would coincide with National Planning Policy (as referred to within the NPPF) and Local Policies relating to digital enhancement. Some of the benefits of providing connectivity result in positive social, economic, environmental, health and educational outcomes, including additional access to key services which operate online wholly or in part, reducing digital poverty across the borough, providing remote services, energy efficiency and monitoring of air quality, producing cost effective businesses and economic growth.
- 7.10 While the public benefits suggested by the appellant would have some positive outcome, it is not considered the overall impact of these would outweigh the permanent harm the proposed development would result in to the adjacent heritage asset and its setting. Additionally, the public benefits provided are generic and not specific to members of the public within this area that would benefit from the proposed coverage. No statistics have been provided to demonstrate the public within this affected area would benefit from additional connectivity, nor has evidence to show people within this area are currently disadvantaged existing levels of connectivity, or increased demand within this area.
- 7.11 The applicant has drawn reference to the 18m pole just south of the application site, on the northwest corner of Rochdale Infirmary. This pole is not directly adjacent to the registered park and garden, as commented upon within the Conservation Officer's Consultee Response (See Appendix B), and therefore the considerations taken into the planning assessment of this (21/01260/TELE) vastly differ to that of this application. Image 3 shows this pole within its context and setting.

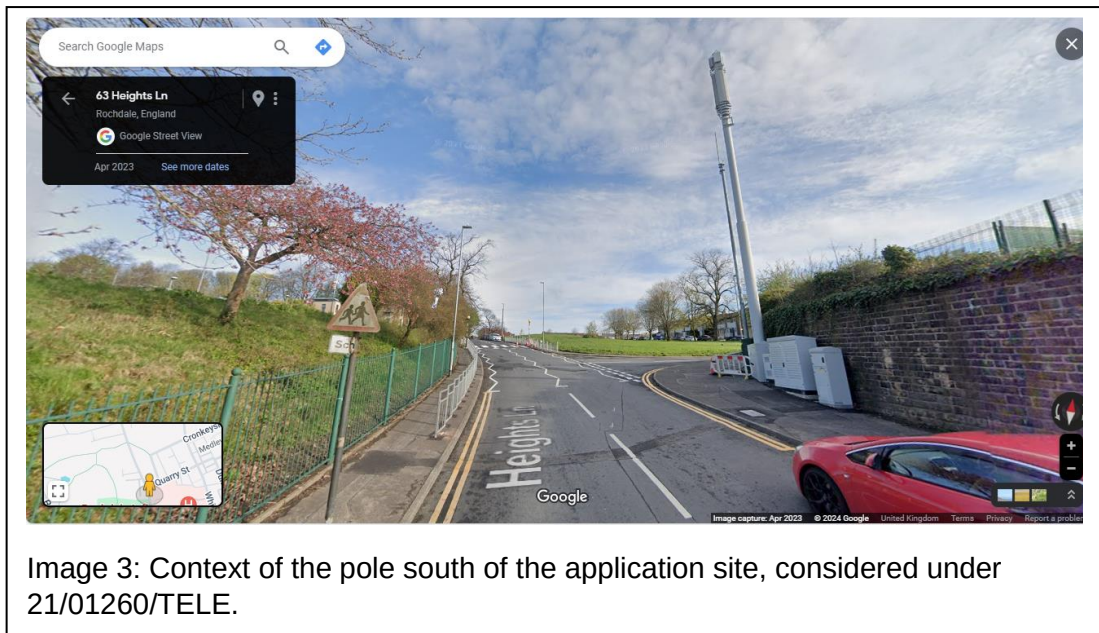


Image 3: Context of the pole south of the application site, considered under 21/01260/TELE.

7.12 Additionally, in Appeal Decision APP/P4225/W/22/3295575 (Rochdale MBC), the Inspector states *'Relevant to the appeal, the streets that surround the SECA provide the main approaches into the area, permitting key vistas and general views towards it from both public and private spaces. As such, these routes, including Sheriff Street and the site, form the SECA's immediate setting and contribute in a positive way to its special interest and significance as a designated heritage asset.'* Relevant to the appeal being considered within this statement of case, this wording further justifies the harm the proposal would have on the setting of the asset, with the views from the eastern boundary of the park eroded by the proposed development. This reinforces how the proposal would be contrary to the requirements of Core Strategy Policy P2, and how the proposal would be to the detriment of the adjacent Registered Park and Garden, and would not protect, preserve nor enhance the heritage asset or its setting. The proposal is sited within the closest possible location to the asset without being sited directly within the grounds of the Registered Park and Garden itself. The proposed monopole would result in an incongruous feature within the setting of the heritage asset, and in turn, would harm the setting of the asset by its siting. As a whole, this would not seek to conserve or protect the asset, and is contrary to paragraph 205 of the NPPF.

8.0 OTHER MATTERS

8.1 At 1.17 of the appellant's statement of case, the appellant suggests the LPA is inconsistent with the heritage assessment of masts, naming three existing LPA approved masts are shown at D8, D14 and D9 on the accompanying map. As referenced within the Conservation Officer's consultation response to the appeal (Appendix B), the context and setting of 21/01260/TELE is a markedly different context and therefore a heritage statement, and the impact of heritage was not a relevant material consideration in the determination of the application.

8.2 At section 1.33 of the appellant's statement, they refer to the Council's own digital strategy, and that by refusing the application contrary to the strategy this could be considered unreasonable. While the Council recognises the importance of digital

enhancement for the residents of the borough as set out within the Digital Strategy, planning policies exist alongside these to ensure that enhancement of digital technology is carried out in a considered and sustainable way, in appropriate locations only. Therefore, it is not considered the Council's digital strategy is being disregarded.

- 8.3 The proposed monopole would replace the existing apparatus located on the corner of Falinge Road and Clarke's Lane, approximately 360m south west of the proposal site. The LPA notes 1.19 of the appellant's ground for appeal whereby the replaced mast was incorrectly referred to as the mast approved by 21/01260/TELE on Quarry Street. For the avoidance of doubt, the LPA accepts this correction and is aware the application would replace the apparatus on Falinge Road. Irrespective of this however, the proposed appeal site does not extend to the Falinge Road site within the identified red edge on the location plan, and as such it is not considered the removal of this mast would not be able to be secured via planning condition.

9.0 Conclusion

- 9.1 In conclusion, the appellant's grounds of appeal, while providing key information to inform the decision, would not outweigh the permanent less than substantial harm the proposal would incur upon the adjacent designated heritage impact. While other design options have been shown and it has been addressed no possible design alternative is available, no viable option of the telecommunications pole sited in a less harmful position or setting has been brought forward. When the harm of the impact upon the heritage asset is weighed against the public benefits, the harm would not be outweighed against the benefits of providing 5G in this location.

- 9.2 In light of the above, the LPA respectfully request that the appeal be dismissed

- 9.3 Should the Inspector be minded to grant planning permission for the development the following condition is requested:

1. The proposed mast should be coloured black or dark green prior to installation and shall be retained and maintained as such.

Reason: In order to ensure a satisfactory appearance in the interests of visual amenity, and preserve and enhance the heritage asset, in accordance with Policies DM1, P2 and P1 of the Rochdale Core Strategy and the National Planning Policy Framework.

APPENDIX A: Council Conservation Officer's Consultation Response for the original application submission

CONSERVATION CONSULTATION RESPONSE

Conservation Officer	Catherine Fenghour
Date	12 January 2022
Application Reference	22/01485/TELE
Address	Heights Lane S.W., Rochdale, OL12 0AQ
Proposal	Prior notification for the installation of a new 20m monopole tower to support 6 antennas, associated radio equipment housing and ancillary development thereto

Heritage Assets Impacted

Designated Heritage Assets	☒	- Falinge Park (Registered Park and Garden – grade II)
Non-Designated Heritage Assets	☐	-

Summary

I am not able to support the proposal

Significance Assessment

The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO 2015), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require a local planning authority to assess proposals for the installation of telecommunications equipment solely on the basis of their siting and appearance.

The application site lies to the east of Heights Lane on open area of land, known locally as Cronkeyshaw Common. Across the road, is Falinge Park a registered Park Garden (grade II). The Park and Garden contains, the façade of Falinge Hall, and associated ancillary buildings, listed at grade II in 2001.

Falinge Hall was built by James Royd in the late C18. The Hall and grounds, were presented to the Corporation by Alderman Samuel Turner in 1902 to create a public park. By this time, the Hall had

already fallen into a dilapidated condition. The Hall was partially demolished in the 1950s, leaving the façade, pavilion wings and some outbuildings. These structures are still present today and are listed at grade II for their special architectural and historic interest.

Falinge Park opened to the public in 1906, and was extended in 1911 to the extent seen today. The boundaries of the park are marked with a low stone wall, with mature landscaping. In many places the original railings have been lost, although some have subsequently been replaced. The closest entrance to the Park in relation to the application site is to the north along Park Lane. This pedestrian access is marked by stone gate piers and a cast iron entrance gate. As with elsewhere along the Heights Lane boundary to the site, mature landscaping marks the entrance to the Park.

The proximity to this registered park and garden and the siting directly opposite, mean that it would be viewed within the setting of this heritage asset. The impact on a designated heritage asset is a material consideration when assessing the siting and appearance of a proposed telecommunications mast.

The supporting information acknowledges the proximity of Falinge Park, but does not include a heritage statement. Nor does it include any assessment of the impact of the proposals on the significance of this designated heritage asset. In the absence of a heritage statement, it does not appear that the applicant has adequately considered the significance of the designated heritage asset or how it would be impacted by the proposal. The requirements of NPPF paragraph 194 have not been met.

At 20m tall, the proposed mast would be markedly taller than any other manmade structures within along this part of Heights Lane. Its vertical projection, combined with the associated equipment and boundary treatments, and its isolated position on an area of open space would make it a prominent and intrusive feature within the wider setting of the Registered Park and Garden. It would detract from the Park's verdant and historic boundary along Heights Lane. As a result, it would be an intrusive and harmful feature, which would cause less than substantial harm to the significance of the designated heritage asset.

NPPF paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. NPPF paragraph 200 states that any harm to, or loss of the significance of a designated heritage asset should require clear and convincing justification.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset. This harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use (paragraph 202).

In this case, it is not considered that the identified harm has been clearly or convincingly justified. In accordance with NPPF paragraph 202, this harm needs to be weighed against any identified public benefits.

APPENDIX B: Council's Conservation Officer Consultation Response following submitted Heritage Assessment and Appellants Grounds for Appeal.

22/01485/TELE – Heights Lane, Rochdale

Thank you for consulting me on the above appeal, which follows on from a refusal to grant prior approval (reference: 22/01485/TEL). The application for prior approval was refused for two reasons. The second reason related to heritage and read as follows:

"The height of the mast, combined with its position would result in an incongruous and intrusive feature, which would detract from views of Falinge Park from the east. As such, this would result in less than substantial harm to the setting of the Grade II Registered Falinge Park, a designated heritage asset. This harm has not been adequately justified or mitigated. No public benefits have been put forwards that would outweigh this harm. The development would therefore be an incongruous and harmful feature which would detract from the setting of the Park, and would conflict with the requirements of Policy P2 and DM1 of the Rochdale Core Strategy and Chapter 16 of the NPPF."

The NPPF has been updated during the course of the appeal. My comments below, refer to the new NPPF paragraphs, rather than the superseded ones.

The original prior approval application did not include a heritage statement, and my comments were provided on this basis. As part of this appeal, the applicant has now provided a heritage statement, which sets out the heritage assets within the vicinity of the site and considers the impact on their significance. This heritage statement is considered to meet the requirements of NPPF paragraph 200.

The submitted heritage statement concludes that the proposal would result in less than substantial harm to the significance of the Registered Park and Garden. It finds that the overall level of harm would be negligible, noting that views into the park are largely blocked by mature trees and shrubs, allowing for a limited appreciation of the heritage asset.

It is acknowledged that from within the Park, views outwards are limited, owing to the presence of the boundary trees. However, this is not the only factor to be considered. It is equally important when assessing the impact of a development on a heritage asset, to take into account its setting. This includes views looking inwards or towards the heritage asset.

In this case, the mature trees and stone walls along Heights Lane are within the boundary of the Registered Park and Garden. Rather than screening the proposal from the Park, they are within the Park and contribute to its significance and how the asset is appreciated. When approaching the Park on foot from Cronkeyshaw Common, it is this backdrop of mature trees and stone boundary walls which characterises this part of the Park. The Park and Common define this part of Heights Lane, providing a pleasant verdant setting. The open character of the Common makes a positive contribution to the significance of the Registered Park and Garden.

As such rather than masking the Park, the trees and stone walls are part of the park and should be considered as such, when assessing the degree of harm. The introduction of a new 20m high telecoms mast in this location, directly opposite the heritage asset would be an intrusive feature, which would be out of keeping with the historic and verdant character of Falinge Park and its setting.

For these reasons, it is considered that the proposal would result in less than substantial harm to the significance of the designated heritage asset. This harm is considered to be greater than the negligible level of harm identified within the appellant's heritage statement. In accordance, with NPPF paragraph 206, any harm requires clear and convincing justification. Where a proposal would

result in less than substantial harm, this harm should be weighed against the public benefits of the proposal (NPPF paragraph 208). In this case, this is likely to include the availability of other less sensitive sites.

The heritage statement concludes that the mast would have a neutral impact on the significance of the grade II listed Falinge Park Hall Façade and Pavilions. There is no dispute with this conclusion. It is noted that the impact on this listed building was not included within the reasons for refusal.

The appellant has made several references to the existing mast on the corner of Quarry Street and Heights Lane. The impact of this mast on the heritage asset is materially different to the current proposal. It is not located immediately opposite the Park, instead it is separated by existing buildings, outside of the Park's boundary. It is also located in a far less open position, with built form to three sides, rather than on the Common, as the appeal scheme proposes. As a result of these factors, its impact on the designated heritage assets is lesser than would be the case with the current proposal.

The appendices includes an appeal decision relating to the Court Oak PH (PINS ref: 3289558). The Court Oak PH is identified as a locally listed building, separating the site from the closest listed building. The assessment of impacts on an NDHA is different to that of a designated heritage asset. Furthermore in this case, the trees which provided screening were not themselves part of a designated heritage asset. For these reasons, it is considered that this appeal decision is not relevant to the current application.

The Supplementary Information document submitted as part of the prior approval application acknowledged that to the west of the site is the grade II Falinge Park. This reference to the Registered Park and Garden shows that the appellant was aware of the proximity of this designated heritage asset when they submitted the application. As a professional planning agent, they would most likely have known that the impact on the setting of the designated heritage asset would be a material consideration. However, they did not submit a heritage statement as part of the application, instead choosing to submit this as new information as part of the appeal process. This has resulted in the full assessment of this essential information having to be carried out by the local planning authority at a late stage as part of the appeal.