



Appeal Decision

Site visit made on 13 November 2024

by H Senior BA (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th February 2025

Appeal Ref: APP/P4605/W/24/3346197

Rowheath Pavilion Car Park, Heath Road, Birmingham B30 1HH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 16 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Cornerstone against the decision of Birmingham City Council.
 - The application Ref is 2023/07370/PA.
 - The development proposed is the installation of a 20m monopole supporting 6 no. antennas and 2 no. 0.3m dishes, 2 no. cabinets, associated ancillary equipment and works thereto.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO), under Article 3(1) and Schedule 2, Part 16, Class A, Paragraph A.3(4) require an assessment solely on the basis of a development's siting and appearance, taking into account any representations received. My determination of this appeal has been made on the same basis.
3. The provisions of the above-mentioned legislation does not require regard to be had to the development plan in the same way as for a scheme seeking express planning permission. I have therefore referred to it, related guidance and the National Planning Policy Framework (the Framework) only in so far as they are material considerations relevant to matters of siting and appearance.

Main Issue

4. The main issue is the effect of the siting and appearance of the proposed installation on the character and appearance of the area with particular regard to the setting of Grade II Rowheath Pavilion and Rowheath Park, and if any harm would occur, whether this is outweighed by the need for the installation to be sited as proposed taking into account any suitable alternatives.

Reasons

5. The appeal site is to the far rear corner of a car park which is set back but highly visible from Heath Road. It is related to and serves the grade II listed Rowheath Pavillion, a building historically used as changing rooms and function space. The pavilion is in close proximity to and associated with areas of large, undeveloped and open spaces used historically as sports facilities for the

community by Cadbury's, some of which forms the registered Rowheath Park. The size, expansiveness and unspoilt nature of the spaces around the building contribute positively to its visual and social significance of both the park and the setting of the building.

6. At 20 metres tall, the pole would be highly visible in the locality despite being set back some distance from the road. Due to its position in amongst rather than significantly detached from the wide-open spaces of the park, it would jar as an obvious and strong modern utilitarian feature, significantly reducing the quality and experience of the pavilion and park's unspoilt community functions and thus setting.
7. There are trees in the vicinity of the proposal, however the mast would be much higher than them. It would be seen in the context of the car park to the front and open space to the rear, an area where there are limited examples of other high structures and street furniture. The existing hedge to the rear of the car park would go some way to screen the cabinets from Heath Road, but they would not sufficiently screen the mast. Rowheath Pavilion is separated from the proposed location by an area of trees and a children's play area. This would not however prevent views of the mast from both the pavilion and park, particularly in the winter months as several of the trees are deciduous.
8. The siting and appearance of the proposed development would therefore result in unacceptable harm to the character and appearance of the area which would extend to the setting of Rowheath Pavilion and Rowheath Park. Insofar as they are material considerations, this would lead to conflict with the aims of Policies DM2 and DM16 of the Development Management in Birmingham Development Plan Document 2021 and Policy PG3 of the Birmingham Development Plan 2017 which together and amongst other matters seek to ensure that development is appropriate in siting, scale and appearance and has regard to the character of the area. It would also conflict with the aims of section 16 of the Framework.
9. The harm to the setting of the listed building would be less than substantial given the scale and scope of the scheme in a wider context. Paragraph 208 of the Framework requires decision makers to weigh any less than substantial harm against the public benefits of the scheme.
10. Telecommunications infrastructure is necessary to provide modern and high-speed communication, particularly in urban locations and is supported by the Framework and the Government. There may also be significant economic and social benefits to the installation. The Framework expresses support for the expansion of electronic communications networks, including next generation mobile technology. The mast would provide 5G coverage in the area. This could benefit education, improved connectivity, business support and healthcare. Whilst I do not doubt this to be so, the benefits referred to are very general and broad and largely unrelated or specific to the appeal site. This would limit the weight I would ascribe to them. To the extent that, whilst useful and positive, would not be sufficient to outweigh the harm that I have found to the setting of the listed building and registered park.
11. Alternative sites have been assessed and discounted. There are several reasons for this including the presence of trees, proximity to recreational areas, proximity to the listed building, presence of other operators' masts that are not suitable for sharing and distance from the preferred location so that it would

not replicate the same area of coverage. The appellant has concluded that there were no mast sharing opportunities or buildings for rooftop installation available.

12. I cannot however be certain that the search for alternatives has been sufficiently exhaustive. Particularly given the proximity of the proposed installation to the pavilion and its associated open spaces. Accordingly, the need for the installation to be sited as proposed, taking into account any suitable alternatives, does not provide a clear and convincing justification for the harm which would arise as a result of the siting and appearance of the development.

Other Matters

13. Of the examples of other appeal decisions I have seen¹, only the Swanhurst Lane appeal one has a main issue relating to the setting of a listed building although I am uncertain as to the proximity of the listed building in relation to the proposed mast. There are therefore clear material differences between the proposal before me and the individual circumstances surrounding these appeal decisions. Such that they do not sway me from my findings above.

Conclusion

14. For the reasons given above the appeal should be dismissed.

H Senior

INSPECTOR

¹ APP/P4605/W/23/3329592, APP/P4605/W/22/3303938, APP/P4605/W/21/3271840, APP/P4605/W/21/3271311