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# Appeal Decision

Site visit made on 12 October 2021

**by L Page BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 8<sup>th</sup> December 2021**

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## **Appeal Ref: APP/Y3615/W/21/3270545**

### **78490 - Thornet Wood Stables, Lower Farm Road, Effingham, Leatherhead KT24 5JG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under 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 EE Limited against the decision of Guildford Borough Council.
  - The application Ref 20/W/00143, dated 22 December 2020, was refused by notice dated 3 February 2021.
  - The development proposed is 1No. 24m high FLI Cypress Tree mast with 3No. antennas, 2No. 0.6m dishes and 2No. ground-based equipment cabinets and ancillary development thereto. To be installed within a 10.0m x 10.0m compound with a 1.8m high chain link fence.
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## **Decision**

1. The appeal is allowed, and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 16, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), for the siting and appearance of 1No. 24m high FLI Cypress Tree mast with 3No. antennas, 2No. 0.6m dishes and 2No. ground-based equipment cabinets and ancillary development thereto. To be installed within a 10.0m x 10.0m compound with a 1.8m high chain link fence on land at 78490 - Thornet Wood Stables, Lower Farm Road, Effingham, Leatherhead KT24 5JG in accordance with the application Ref 20/W/00143, dated 22 December 2020, and the details submitted with it.

## **Procedural 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 the local planning authority to assess the proposed development solely on the basis of its siting and appearance, considering any representations received. My determination of this appeal has been made on the same basis. Therefore, whilst the appellant has referred to the purported benefits, I have not taken these matters into account. Similarly, the question of whether the proposal represents inappropriate development in the Green Belt does not arise. Consequently, a number of the material considerations that seemingly arose in the previous appeal decision<sup>1</sup> at the site, which dealt with the Green Belt in the context of a planning application refusal, are not engaged in this particular case.

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<sup>1</sup> APP/Y3615/W/20/3255029

3. Furthermore, and in any event, the previous proposal appears to be materially different in its appearance compared to the proposal in this case because of camouflage, among other things. Altogether, I am not bound by the conclusions of the previous appeal decision.
4. The principle of development is established by the GPDO, and the relevant provisions do not require regard be had to the development plan. I have only had regard to the policies in the development plan and the National Planning Policy Framework (the Framework) insofar as they are material considerations relevant to matters of siting and appearance.
5. The appellant submitted new evidence relating to health and safety, among other things, with the appeal. The Council and other interested parties will have had an opportunity to comment on this new evidence. It has been accepted on this basis and considered where necessary.

### **Main Issue**

6. The main issue is the effect of the siting and appearance of the proposal on the character and appearance of the area.

### **Reasons**

7. The site is located on land at Thornet Wood Stables in Effingham and comprises a parcel of land to the south of an existing railway line. The appellant has demonstrated that a new mast is required on this particular site due to gaps in signal coverage along the railway line and pursuant to upgrading the emergency services network in the area, among other things. The site is directly adjacent to a large tree and in the vicinity of several other large trees, which together help establish the boundaries of neighbouring fields. The site is not in a large open area within the field themselves.
8. During my visit, and when walking along the public right of way from a westerly direction, it was very difficult to achieve clear views of the site. This was mainly due to the large trees along the field boundaries obscuring my view. It is clear looking at the plans that views from other directions would also be difficult to achieve. Furthermore, the panoramic views presented by the appellant clearly demonstrate the screening effect of intervening boundary trees would be significant.
9. The proposal involves the installation of 1No. 24m high FLI Cypress Tree mast with 3No. antennas, 2No. 0.6m dishes and 2No. ground-based equipment cabinets and ancillary development. The proposal would be installed within a 10m by 10m compound with a 1.8 m high chain link fence. The Council state that the scale and design of the proposed mast would be unacceptable in this location, but there is very little in the way of substantive assessment that would lead me to this conclusion.
10. Even appreciating that there may be very few cypress trees within the vicinity, there are said to be cypress trees nonetheless and it is not clear how the proposal would look unusual in this context. Furthermore, it would appear that the proposal is no larger than other trees in the vicinity, and its camouflaged appearance would help it assimilate into the landscape. It follows that the smaller scale, and low lying ancillary development, such as the cabinets, would also assimilate in a similar manner.

11. Overall, due to the proposal's siting and appearance, it would not have a harmful effect on the character or appearance of the area and so, insofar as they are material considerations, would accord with Policy D1 of the Guildford Borough Local Plan: Strategy and Sites 2019, and Chapter 10 of the Framework. Among other things, these seek to support high quality communications of good design.

### **Other Matters**

12. There are conflicting accounts from other interested parties about the site's location relative to a local wildlife corridor. There is no substantive reasoning in front of me demonstrating that the site is within a local wildlife corridor or otherwise protected by the Effingham Neighbourhood Plan 2018 in this regard. Consequently, I have given the matter limited weight under the appeal.

### **Conditions**

13. Any prior approval granted under Article 3(1) and Schedule 2, Part 16, Class A of the GPDO is subject to conditions set out in Paragraphs A.3(9), A.3(11) and A.2(2), which specify that the development must, except to the extent that the local planning authority otherwise agrees in writing, be carried out in accordance with the details submitted with the application, must begin no later than the expiration of five years beginning with the date on which the local planning authority received the application, and must be removed as soon as reasonably practicable after it is no longer required for electronic communications purposes and the land restored to its condition before the development took place. In light of the above, the conditions proposed by the Council are unnecessary.

### **Conclusion**

14. For the reasons given above, the appeal is allowed, and prior approval is granted.

*Liam Page*

INSPECTOR