



Appeal Decision

Site visit made on 26 March 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 April 2025

Appeal Ref: APP/G5180/W/24/3352324

Foxburrow Wood, Land at Cackets Farm, Cackets Lane, Cudham, Sevenoaks TN14 7QG

- 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 the Council of the London Borough of Bromley.
 - The application Ref is 24/00380/TELCOM.
 - The development proposed is the installation of a 20m FLI Pine Tree Tower (painted green) accommodating 3no. antennas, 2no. microwave dishes & RRUs, the installation of 3no. equipment cabinets with ancillary works.
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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 installation of a 20m FLI Pine Tree Tower (painted green) accommodating 3no. antennas, 2no. microwave dishes & RRUs, the installation of 3no. equipment cabinets with ancillary works. at Foxburrow Wood, Land at Cackets Farm, Cackets Lane, Cudham, Sevenoaks TN14 7QG in accordance with the application 24/00380/TELCOM and the details submitted with it.

Application for costs

2. An application for costs was made by Cornerstone against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. As this is an application for prior approval the provisions of the 2015 General Permitted Development Order (the GPDO) require the local planning authority to assess the proposed development solely on the basis of its siting and appearance, taking into account any representations received. This appeal will be determined on the same basis.
4. The principle of development is established by the GPDO, the provisions of which do not require regard be had to the development plan, and the fact that the appeal site is within the Metropolitan Green Belt does not alter this. I have had regard to the policies of the development plan only insofar as they are a material consideration relevant to matters of siting and appearance.

Main Issue

5. The main issues are;

- the effect of the siting and appearance of the proposed installation on the character and appearance of the area, including the setting of the Cudham Village Conservation Area; 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

Character and Appearance

6. The appeal site (the site) is on open land near the village of Cudham. It is on the ridge of a hill, near a field boundary marked by a hedgerow and trees (the site ridge). A wooded copse is nearby to the east, but most of the land around is open, and divided into paddocks by low fencing and field gates which are neat and well maintained. The area is lightly criss-crossed by telegraph poles and overhead cables and there are a handful of buildings in the vicinity of the site, with those most visible appearing as either functional agricultural buildings, traditional cottages, or farmhouses. The result of these features is that the area has distinctly open and rural characteristics but is not undeveloped or entirely naturalistic. Rather, it appears as picturesque but functional, working rural land, served by simple infrastructure.
7. To the west of the site lies the Cudham Village Conservation Area (the CA), the boundaries of which broadly align with, respectively, Church approach, Cackets Lane, Cudham Lane South, and the western edge of the field in which the installation would be located. The bulk of built development in the CA is set out around its edges. The imposing Cudham Hall is one of three listed buildings on the western edge of the CA. These sit alongside traditional features such as the local recreation ground, cricket club, public house, and St Peter's & St Paul's Church (the Church), creating a quintessential English village environment. The impressive Rectory House and its grounds are to the north of the CA, whilst charming traditional cottages are found on its southern edge. These buildings are locally listed and, as such, the merit of historic buildings around each of the western, northern and southern edges of the CA is formerly recognised.
8. In contrast, the central and eastern parts of the CA are relatively unremarkable. Whilst attractive, the land therein is not evidently different in character to neighbouring fields left outside of the CA. It is picturesque working land of the type I have identified as common in the wider local area.
9. The significance of the CA insofar as it relates to the appeal is in the historic and architectural value of the buildings around its western, northern and southern edges, which are set within, and separated by, working agricultural land.
10. The site is visible from footpaths that lead over open fields towards the Church from Mace Lane and Cackets Lane respectively. The latter path leads directly across the open part of the CA (the CA footpath). From here, the site ridge forms part of the northeastern backdrop to the CA, indicating that the land beyond remains rural and agricultural, and giving context to the broad location of the CA.

For these reasons, the site is within the setting of the CA. It contributes to its significance by illustrating its remote position within extended working, rural, agricultural land.

11. The proposed installation would be some 20m high. Its main mast would narrow from base to top, and feature artificial branches and leaves intended to replicate the appearance of a tree. Whilst this would, to a degree, help to integrate the installation into the nearby woods when viewed from a distance, it would be significantly taller than the nearest trees, would remain unmoving in high winds and unchanging across the seasons. As such, it would be identifiable as a man-made, functional development even before closer inspection.
12. The functional appearance of the installation would not be entirely alien within the landscape; it would be seen alongside existing, contextual features including field enclosures, access tracks, buildings, and telegraph poles and cables, all of which give the area a working, practical feel, with the latter introducing vertical development. Even so, the height and size of the installation would give it a stark, overbearing presence, exacerbated by the enclosure and equipment located at its base and its prominence in a short clearing on the site ridge. Notwithstanding the practical, working nature of the area, these features would place the installation harmfully at odds with the picturesque rural component within its character and appearance.
13. Whilst I find harm to the character and appearance of the area, I do not find the proposed installation would harm the setting, and therefore significance, of the CA. The distance from the site to Rectory House, to the traditional cottages on Cackets Lane, and to the linear village core on Cudham Lane South is some 450m, 550m, and 750m respectively, with intervening bands of mature trees. Even if the installation were visible from these locations, it would be far enough away not to harmfully affect the views of or from them. The installation would be visible from the CA footpath, though over a distance of some 500m, mitigating the effect of its presence therefrom. Moreover, whilst the installation would harm the character and appearance of the area, it would not alter its fundamental nature as working, rural, agricultural land, and so not alter its contribution to the setting of the CA. I find the effect of the proposed installation on the significance of the CA to be neutral.
14. Overall, whilst the siting and appearance of the proposed installation would preserve the setting of the CA, it would have a harmful effect on the character and appearance of the area. Insofar as they are a material consideration, and even if the site is taken to be adjacent to the CA, the proposal would not conflict with Local Plan Policy 42 of the Bromley Local Plan (2019) (the Local Plan) which requires development adjacent to a conservation area to preserve its setting, but would conflict with Policy 37 of the Local Plan, where it requires development be attractive to look at and positively contribute to the existing landscape.
15. The decision notice states that the proposal would be harmful to the visual amenities and openness of the Green Belt, within which the site is located, and cites conflict with Policy 49 of the Local Plan. Whilst I see no reason why the land being in the Green Belt ought not to indicate the openness of its character, Policy 49 is not material to the determination of this appeal as the issues it pertains to do not include character and appearance.

Alternative Sites

16. The National Planning Policy Framework (the Framework) supports the provision of advanced, high quality and reliable communications infrastructure, which it states are essential for economic growth and social well-being. Paragraph 119 states that planning policies and decisions should support the expansion of the electronic communications network, including next generation mobile technology such as 5G and full fibre broadband connections. The proposed development would provide 4G network coverage, and be capable of providing 5G services in future. The supporting coverage plot extract supplied with the application demonstrates that the appeal site is at the centre of an area with a deficiency in 4G coverage.
17. The Framework also requires that applications for a new mast or base station include evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure. The application included a list of nine locations that had been discounted, with basic details pertaining to each. The appeal included a more comprehensive assessment in which 25 locations were discounted. Aside from noting the low level of detail, the Council did not find fault in the original alternative sites assessment, nor identify any inadequacies within it as part of the reason for refusal. Furthermore, the Council has not objected to, or identified fault with, the latter, more comprehensive assessment. On that basis I am content to consider the content of both assessments in my determination.
18. The later, more comprehensive assessment demonstrates a sufficiently detailed approach to sequential site selection, and in the absence of evidence from the Council to demonstrate otherwise, I see no reason not to accept that the appeal site has been selected following an appropriate assessment of alternatives. The lack of better or alternative options to deliver improved coverage and capacity as needed in this area is a consideration which weighs strongly in favour of the development.
19. As set out above, there is no requirement to have regard to the development plan. Even so, the proposal would comply with Policy 89 of the Local Plan in that the possibility of using an existing building, mast or other structure has been explored and proved to be unsuccessful.

Planning Balance

20. Under the terms of the GPDO the principle of the proposal is not at issue, rather it is for me to consider the matters of siting and appearance. Therefore, the various social and economic benefits presented by the appellant have not been taken into account.
21. It has been demonstrated that the proposal would enable 4G, and ultimately 5G coverage to be rolled out in an area where there is a need for additional coverage and capacity, and that there is a lack of realistic suitable alternative sites. These matters weigh so strongly in favour of the proposal that, when taken together, are sufficient to outweigh the harm to the character and appearance of the area that I have identified.

Conditions

22. The Order does not provide any specific authority for imposing additional conditions beyond the deemed conditions for development by electronic communications code

operators contained within it. These specify that the development must be carried out in accordance with the details submitted with the application, begin within 5 years of the date of the approval and 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.

Conclusion

23. The siting and appearance of the proposal would result in harm to the character and appearance of the area. However, in the absence of a more suitable alternative site within the required area and given the need for the installation, that harm would be outweighed by the benefits provided by the improved telecommunications coverage and capacity. The proposal would therefore comply with the Framework when read as a whole with due regard to supporting high quality communications.
24. I therefore conclude that the appeal should be allowed and that prior approval should be granted.

A Knight

INSPECTOR