

Cornerstone Telecommunications Infrastructure Ltd (Appellant) v Ashloch Ltd and another (Respondents)

Case ID: 2021/0051

Case summary

Issue

Does the Upper Tribunal have jurisdiction to confer rights over land in favour of an operator under the Electronic Communications Code (the Code) where that operator has a Landlord and Tenant Act 1954 (LTA 1954) protected tenancy and is in occupation of the land?

Facts

The First Respondent owns a site called Windsor House. The Appellant has a tenancy on part of the roof of Windsor House for the purposes of providing telecommunications services. The Appellant's tenancy pre-dates the entry into force of the Code and is protected by the LTA 1954. The Second Respondent has a 99-year lease with the First Respondent over the roof of Windsor House, which is subject to the Appellant's tenancy. The Appellant asked the Upper Tribunal to impose an agreement under para 20, Part 4 of the Code (a Code agreement) between the Appellant and the Second Respondent. The Second Respondent argued that Part 4 of the Code is not available to the Appellant as the occupier of the site. The Upper Tribunal found it had no jurisdiction to impose a Code agreement where the operator is in occupation of the land under a tenancy protected by the LTA 1954. The Court of Appeal dismissed the Appellant's appeal.

Judgment appealed

[\[2021\] EWCA Civ 90](#)

Parties

Appellant(s)

Cornerstone Telecommunications Infrastructure Ltd

Respondent(s)

(1) Ashloch Ltd; (2) AP Wireless II (UK) Ltd

Appeal

Justices

Lord Hodge, Lord Sales, Lord Leggatt, Lord Burrows, Lady Rose

Hearing start date

1 February 2022

Hearing finish date

3 February 2022

Watch hearing

1 Feb 2022 [Morning session](#) [Afternoon session](#)

2 Feb 2022 [Morning session](#) [Afternoon session](#)

3 Feb 2022 [Morning session](#) [Afternoon session](#)