
Appeal Decision

Site visit made on 30 March 2022

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 06 April 2022

Appeal Ref: APP/U5360/W/21/3280131

Area of footpath, Stanway Street, Hackney, London N1 6RE

- 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) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Hutchinson 3G UK Limited against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2021/1079, dated 7 April 2021, was refused by notice dated 1 June 2021.
 - The development proposed is described as a street pole with built-in cabinet, 3no. separate cabinets and ancillary works.
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Decision

1. The appeal is allowed and 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 a street pole with built-in cabinet, 3no. separate cabinets and ancillary works at Area of footpath, Stanway Street, Hackney, London N1 6RE in accordance with the terms of the application Ref 2021/1079, dated 7 April 2021, and plans 215 Proposed Site Plan (Issue C), and 265 Proposed Site Elevation (Issue C).

Procedural Matters

2. Amended plans were submitted with the appeal. The differences between these plans and those submitted with the application are very minor, consisting of the omission of dishes from the mast, use of a cabinet of slightly different dimension by different supplier, and modified cabinet door openings. These plans have drawn no comment from the Council. I am otherwise satisfied that given the very minor nature of the changes the interests of no party would be prejudiced by my use of them to determine the appeal.

Main Issue

3. Insofar as the GPDO limits consideration of the proposed development to the matters of siting and appearance, the main issue is whether the siting and appearance of the development would conserve the settings of Hoxton Street Conservation Area and Kingsland Conservation Area.

Reasons

4. The site is located on land forming part of a gap between Hoxton Street Conservation Area and Kingsland Conservation Area. As the site is not located within either conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which sets out the desirability of the preservation or enhancement of the character or appearance of conservation areas, is not applicable. The National Planning Policy Framework otherwise sets out the great weight to be given to the conservation of designated heritage assets, which extends to consideration of the contribution made by their settings. I have therefore assessed the scheme on that basis.
5. Both conservation areas are largely linear designations which centre on single historic streets which run roughly parallel with one another. Insofar as it is relevant to this appeal the significance of both resides in the layout of the streets in question and surviving historic buildings and spaces to either side. In each case this is principally appreciated from within the streets themselves.
6. The gap within which the site is located has a strongly modern developmental character, containing blocks of flats whose height varies up to around 12 storeys. This was presumably the reason it was excluded from either designation. Stanway Street itself runs off Hoxton Street. Though it is possible to walk through to Kingsland Road via connecting paths and streets, it primarily serves as a means of access to the flats. The more immediate context contains a market storage compound, public toilets, parking and various items of street furniture including a CCTV tower. The above being so, and in the absence of any evidence to the contrary, the site makes no obvious contribution to the significance of either conservation area.
7. Nor does the site provide a vantage point from which the significance of either conservation area can be clearly appreciated. This is because Kingsland Conservation Area is largely separated and screened from the site by modern development, and the part of Hoxton Street nearest the site has itself been largely subject of modern redevelopment. Indeed, though an apparently C19th building stands nearby, the view is otherwise dominated by a modern supermarket and flats. It is additionally of note that the C19th building has several antennae mounted to its sides.
8. Within the above context, the mast would be visible from the nearest parts of Hoxton Street, and from within a small public garden space which lies at its junction with Stanway Street. From most perspectives the view would be wholly against a backdrop provided by a modern block of flats. Given its considerable height and mass the latter would continue to dominate the view, much as it does at present. This would limit the extent to which the mast was noticeable, and the mast would otherwise appear visually assimilated into its established modern setting. So too would the cabinets. The development would as such have a neutral effect.
9. Views from Stanway Street towards Hoxton Street would include the mast and cabinets as peripheral features. However, in view of my findings above their effect on appreciation of the significance of the conservation would again be neutral in nature.
10. Views of the development from within Kingsland Road would be limited to the top section of the mast, of which only limited glimpses would be available,

mostly through gaps between modern buildings. The mast would not therefore be prominent or noticeable, or distinct in general character from the modern development alongside which it would be viewed. A limited view would also exist from the hospital site to the north, the nearest parts of which are nonetheless modern. Again, the visual context would be that of modern development, and the overall effect would be neutral.

11. For the reasons outlined above I conclude that the siting and appearance of the development would conserve the settings of Hoxton Street Conservation Area and Kingsland Conservation Area. There is no further requirement to determine the appeal against policies within the development plan, and indeed, none were cited within the decision notice.

Other Matters

12. Prior approval was not refused on the basis that the siting of the development would have an adverse effect on pedestrians. This matter was nonetheless raised within the officer report. In this regard installation of the equipment would narrow a short stretch of pavement below the 2 metre width considered ideal. However, as this is narrowed in many places by existing street furniture the useable width of the pavement already varies. A second pavement is available on the opposite side of the road whose useable width similarly varies. Considered in context the narrowing caused by the development would not therefore be unusual.
13. I have been provided with no indication of the volumes of pedestrian traffic the pavement generally serves, however I observed minimal use during my visit. Given that the pavement runs along a residential side street, it appears likely that the low level of observed use was fairly typical. For this and the above reasons, and again in the absence of any evidence to the contrary, I find that further localised narrowing of the pavement caused by the siting of the development would not cause any unacceptable harm to pedestrians.

Conditions

14. The GPDO 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. For sake of certainty, I have however referenced the amended plans within my decision above.

Conclusion

15. For the reasons set out above I conclude that the appeal should be allowed, and prior approval should be granted.

Benjamin Webb

INSPECTOR