



Appeal Decision

Site visit made on 4 July 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th August 2023

Appeal Ref: APP/U5360/W/21/3271427

Area of Footpath, Stoke Newington Road, Stoke Newington, Hackney N16 8AA

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Chris Weir (Hutchison 3G (UK) Limited) against the decision of the Council of the London Borough of Hackney.
- The application Ref 2020/2488, dated 21 August 2020, was refused by notice dated 30 October 2020.
- The development proposed is a street pole with built-in cabinet, 3 no. separate cabinets and ancillary works.

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 a street pole with built-in cabinet, 3 no. separate cabinets and ancillary works at Area of Footpath, Stoke Newington Road, Stoke Newington, Hackney N16 8AA, in accordance with the application ref 2020/2488, dated 21 August 2020 and the plans submitted with it.

Preliminary Matters

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) require the proposed development to be assessed solely on the basis of its siting and appearance, taking into account any representations received. My determination has been made on this basis, with the siting of the proposal being relevant to this appeal.
3. The principle of development is established by the GPDO and the provisions of the Schedule 2, Part 16, Class A of the GPDO do not require regard to be had to the development plan. I have, though, had regard to the policies of the Hackney Local Plan 2033 (adopted 2020) (Local Plan), as well as other referenced guidance documents insofar as they are material considerations relevant to the matter of siting.

Main Issue

4. The main issue is the effect of the siting of the proposed installation on pedestrian safety.

Reasons

5. The appeal site is on the eastern side of Stoke Newington Road, a short distance from the junction with Somerford Grove. It forms part of the footway that is over 3m wide and the proposal would be located close to a brick wall that runs along the back edge of the footway.
6. Given the width of the footway in the vicinity of the appeal site, and the proposed siting of the mast and cabinets away from the edge of the vehicular carriageway, a clear space of around 2.7m on the footway would be provided along most of the length of the proposal. Although this distance would reduce to around 1.8m between the wrap-around cabinet and an existing lamp post, this more restricted width would be over a very short distance. Given the light pedestrian footfall in the vicinity of the appeal site that I was able to see at the time of my visit, I do not consider the reduced footway width would unduly impede pedestrians, including those with disabilities.
7. The Council has raised concerns on the proposal introducing excess street clutter. I note the proposal comprises of a number of different items, but these would be situated in a linear arrangement and would broadly align with a nearby Royal Mail Post Box and a row of street trees. I do not consider that the proposal would be unduly harmful in this respect.
8. I therefore conclude that the siting of the proposed installation would not result in unacceptable harmful impact to pedestrian safety. It would not therefore conflict with, insofar as they are material considerations, Policies PP1, LP41, LP42 and LP44 of the Local Plan which require, amongst other matters, for development to protect routes for walking and ensure high quality pedestrian environments.

Other Matters

9. I note the concerns in relation to a nearby street tree. There is however no evidence to suggest that the roots would be adversely affected. Reference has also been made to a preference for black coloured street furniture, but given the variation in the colour of different street furniture items in the vicinity of the site, I do not consider it is necessary for the colour to be controlled.

Conditions

10. Any planning permission granted for the development under Article 3(1) and Schedule 2, Part 16, Class A 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 agree in writing, be carried out in accordance with the details submitted with the application, must begin not later than the expiration of 5 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.

Conclusion

11. For the reasons given above, I conclude that the appeal should be allowed.

F Rafiq INSPECTOR