



## Appeal Decision

Site visit made on 19 September 2023

**by A Hunter LLB (Hons) PG Dip MA MRTPI**

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

**Decision date: 24 October 2023**

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**Appeal Ref: APP/U5360/W/23/3318439**

**East Road Street Works, East Road, Hackney, N1 7RE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 CK Hutchison Networks (UK) Ltd against the decision of the Council of the London Borough of Hackney.
  - The application Ref 2022/2974, dated 8 December 2022, was refused by notice dated 30 January 2023.
  - The development is a proposed 5G telecoms installation: H3G 20m street pole and additional equipment cabinets.
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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 (GPDO 2015) for the siting and appearance of a proposed 5G telecoms installation: H3G 20m street pole and additional equipment cabinets at East Road Street Works, East Road, Hackney, N1 7RE in accordance with the terms of the application Ref 2022/2974, dated 8 December 2022, and the plans submitted with it, namely: 002 site location plan; 215 proposed site plan; and, 265 proposed site elevation.

### Preliminary Matters

2. The provisions of the GPDO 2015, 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, taking into account any representations received. My determination of this appeal has been made on the same basis.

### Planning Policy

3. The provisions of Schedule 2, Part 16, Class A of the GPDO 2015 do not require regard to be had to the development plan. I have however, had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to

matters of siting and appearance.

### **Main Issue**

4. Having regard to the above, and the Council's reasons for refusal, the main issue with this appeal is the effect of the siting and appearance of the proposed development upon the character and appearance of the area.

### **Reasons**

5. The appeal site relates to part of a central area of pavement to one side of East Road. This pavement is very wide and broadly level. It already contains various street furniture including lighting columns, some centrally positioned rows of cycle parking stands, and street trees. The nearest buildings to the appeal site, on either side of East Road, are a mixture of three, four, and five storey buildings. Beyond this very immediate area, there are much taller buildings on some sides of the appeal site.
6. The proposed street pole and cabinets would be sited centrally on the pavement alongside some of the adjoining rows of cycle parking stands, which would maintain the linear form of street furniture in this part of the pavement. Although, it would add to the amount of street furniture, the pavement width would ensure that the proposed development would be satisfactorily accommodated within it, without being overly dominant.
7. The proposed street pole would be seen from close-up along East Road in the context of the nearby buildings, street furniture, lighting columns, and street trees. This, together with its black colour and its unfussy design, means that it would not draw attention to itself, detract from the appearance of the nearby buildings or be particularly conspicuous against the sky, despite its height.
8. It is acknowledged that the proposed 20-metre high street pole would be taller than the nearest buildings, nearby street trees and lighting columns, and it would be much wider than those nearby lighting columns. However, the proposed street pole would not be vastly higher than the top parts of the buildings nearest to it, and it would be substantially lower than many other taller buildings nearby that would form the backdrop of many such views of it. In addition, due to the heights and close arrangement of buildings in this area, there would be limited distant views of the proposed street pole.
9. The proposed cabinets would not be much higher than the nearby cycle stands and they would be located very near to the proposed street pole. They would also be seen in the immediate context of the existing street furniture and street trees. Given their regular pattern and small scale and height, their siting and appearance would not unacceptably add to the existing street furniture or be harmful to the character and appearance of the area.
10. To conclude, the siting and appearance of the proposals would respect the character and appearance of the surrounding area. Insofar as they are material planning considerations, the proposals would also accord with the relevant parts of Policies PP1 and LP1 of the Hackney Local Plan 2033, Strategic Planning, adopted July 2020 and Policy D3 of The London Plan, The Spatial Development Strategy for Greater London, adopted March 2021 (LP) which amongst other things require high quality urban design, compatible with the townscape that positively responds to the appearance and scale of buildings and spaces nearby, and avoids unnecessary street clutter. In addition, I found

the proposals to be consistent with paragraph 115 of the Framework, insofar as it requires new phone masts to be sympathetically designed.

11. I also found the proposal to be broadly consistent with the objectives related to High Streets contained in Hackney's Public Realm Strategy, Supplementary Planning Document, dated February 2012, which amongst other things seeks to create recognisable places, with high quality, fixed materials and furnishings that are robust and serviceable.
12. The Council has referred to the proposal being in conflict with Policy D4 of the LP, however this policy is focussed on strategic design review and analysis and, consequently, I did not find it to be directly relevant to this proposal.

### **Other Matters**

13. It is noted that paragraph 117 c) of the Framework states in regard to a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure should be provided. The appellant has stated that the search area is small in order to deliver the required 5G coverage, without interfering with existing installations, to support the delivery of high-quality communications and digital connectivity. In this case, as I have identified that the siting and appearance of the proposed development would be acceptable, it is unnecessary for me to consider the detailed merits of any potential alternative site.
14. The Council has stated that the proposals would reduce the footway width on this part of the pavement to the detriment of the function of the public highway and the safety of highway users. However, they have not included this as a reason for refusal in their decision. On my site inspection I saw that the pavement was very wide on this side of East Road. The addition of the proposals into this central part of the footway, in their narrow linear form, would still mean that there would be ample space to either side of them for users of the pavement to freely move along it. I therefore did not find the proposed development would be harmful to pedestrian safety, or unacceptably reduce the width of the footway.

### **Conditions**

15. Any planning permission granted for this proposed development, in accordance with Article 3(1) and Schedule 2, Part 16, Class A of the GPDO 2015 is subject to conditions set out in Paragraphs A.2(2), A.3(9), and A.3(11) 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**

16. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

*A Hunter*

INSPECTOR