

LOCATION: Mill Hill ERUV
REFERENCE: H/02182/14

Received: 22 April 2014
Accepted: 12 May 2014
Expiry: 07 July 2014

WARD(S): Mill Hill

Final Revisions:

APPLICANT: Mill Hill Eruv Committee

PROPOSAL: In connection with the creation of an Eruv in Mill Hill, and as an amendment to application H/1250/12 dated 6th March 2013, three new sites are proposed in this variation at the following locations:

Site 1 - Bittacy Hill junction of Engle Park (Site 300 - (4 x 6m Poles and wires).

Site 2 - Footpath between 27 & 29 Bittacy Rise (Site 301)- (2 x 3m Poles and Tie Bar)

Site 3 - Sanders Lane (footpath) junction of Tavistock Avenue (Site 302) (3 x 6m Pole, wires and fencing).

RECOMMENDATION: Approve Subject to Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

MH_300 Issue 1 - Inc Tree (1 of 3), MH_300 Issue 1 (2 of 3), MH_300 Issue 1 (3 of 3), MH_301 Issue 1 (1 of 2), MH_301 Issue 1 (2 of 2), MH_302 Issue 2 (1 of 3), MH_302 Issue 2 (2 of 3), MH_302 Issue 2 (3 of 3), Mill Hill Eruv - variation Eruv continuity/maintenance site 300, 301 & 302, Mill Hill Eruv - Material and Colour draft method statements report No MH 301, Mill Hill Big Map MH001_001 revision 014 7 April 2014

Reason:

For the avoidance of doubt and in the interests of proper planning and so as to ensure that the development is carried out fully in accordance with the plans as assessed in accordance with policies DM01 of the Adopted Barnet Development Management Policies DPD (2012) and CS NPPF and CS1 of the Adopted Barnet Core Strategy DPD (2012).

- 2 This development must be begun within three years from the date of this permission.

Reason:

To comply with Section 51 of the Planning and Compulsory Purchase Act, 2004.

- 3 The poles hereby approved at the following sites shall be treated upon installation with anti climb paint 2.5m above adjacent ground level;

Site 3. Sanders Lane (footpath) junction with Tavistock Avenue

The anti-climb paint shall be retained and maintained thereafter.

Reason: In the interest of maintaining the security of the adjacent properties.

INFORMATIVE(S):

- 1 i) In accordance with paragraphs 186 and 187 of the NPPF, the Council takes a positive and proactive approach to development proposals, focused on solutions. The Local Planning Authority has produced planning policies and written guidance to guide applicants when submitting applications. These are all available on the Council's website. A pre-application advice service is also offered. The Local Planning Authority has negotiated with the applicant / agent where necessary during the application process to ensure that the proposed development is in

accordance with the Council's relevant policies and guidance.

- 2 The erection of development on the highway will require a licence under the Highways Act. It will be subject to a number of conditions such as design, use of an approved contractor, indemnity insurance and a bond. If there are problems with any of these matters the licence would not be granted. The Highway Licence covers the proposal in terms of the positions of each pole and will check for any potential concerns, including impacts on clutter, sight lines, obstruction (this would be assessed in relation to all including the needs of disabled people), security, technical specification (including colour of poles and type of wire) etc. The terms of the Licence require weekly inspections for the lifetime of the Eruv and the applicant must submit reports on the outcome of the inspection, any defects identified and actions taken to resolve. The Highways Group also charge an annual fee via the licence to carry out ad hoc inspections to ensure maintenance is being carried out..
- 3 Licences under the Highways Act will only be issued for structures located on areas under the Local Authority's responsibility. For structures located in other areas, the applicant should identify the owner of the land and seek an agreement with the land owner.
- 4 Structures located on a footway or a footpath must allow for a minimum clearance of 1.5 metres for pedestrians. Location of any existing furniture in the vicinity must be taken into consideration to ensure that the minimum clearance required for pedestrians is not compromised.
- 5 In accordance with the general guidance given in the Traffic Signs Regulations and General directions 2002, the applicant should ensure that structures located at the front of the kerb, on a verge or a footway should be a minimum of 0.45m away from the kerbline on borough roads and 0.6m on TLRN roads (trunk roads) to avoid damage and ensure safety.
- 6 The applicant must obtain necessary licences and legal agreement from Transport for London under the Highways Act 1980 (HA80), New Road & Street Work Act 1991 (NRSWA 1991), Traffic Management Act 2004 (TMA 2004), as well as other consent(s) under relevant highway and traffic legislations prior to construction work commencing on site.
- 7 The applicant is advised that on sites located on traffic sensitive routes, deliveries during the construction period should not take place during restricted hours.

1. MATERIAL CONSIDERATIONS

National Planning Policy Framework (NPPF)

In March 2012 the Government published its National Planning Policy Framework (NPPF). This document, which replaced Planning Policy Guidance Notes and Planning Policy Statements, condenses national guidance into a 50 page document as part of the reforms to make the planning system less complex and more accessible, and to promote sustainable growth.

The key theme of the new guidance is that Local Planning Authorities should approach applications with a presumption in favour of sustainable development.

The 3 identified dimensions to sustainable development are: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles including a social role. This is defined as: 'supporting

strong, vibrant and healthy communities ...with accessible local services that reflect the community's needs and support its health, social and cultural well being'.

One of the 12 identified core land use planning principles that should underpin both plan making and decision taking, states that planning should 'take account of and support local strategies to improve health, social and cultural well being for all, and deliver sufficient community and cultural facilities and services to meet local needs'.

The NPPF identifies that the planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Local Planning Authorities should aim to involve all sections of the community in the development of Local Plans and in planning decisions, and should facilitate neighbourhood planning. Planning policies and decisions should aim to achieve places which promote (inter alia) 'safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas'. Planning policies and decisions should 'plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments'.

The Mayor's London Plan: July 2011

The London Plan was published in July 2011 and is part of the development plan under the Planning and Compulsory Act 2004. The London Plan provides strategic planning policy for all London Boroughs for the period up to 2031.

Policy 3.1 Ensuring Equal Life Chances for All
Policy 3.16 Protection and Enhancement of Social Infrastructure
Policy 6.10 Walking
Policy 7.1 Building London's Neighbourhoods and Communities
Policy 7.2 An Inclusive Environment
Policy 7.4 Local Character
Policy 7.5 Public Realm
Policy 7.8 Heritage Assets and Archaeology
Policy 7.21 Trees and Woodlands

Barnet Local Plan (2012)

Relevant Core Strategy Policies:

CSNPPF National Planning Policy Framework – Presumption in Favour of Sustainable Development
CS1 Barnet's Place Shaping Strategy- Protection, Enhancement and Consolidated Growth - The Three Strands Approach
CS5 Protecting and enhancing Barnet's Character to Create High Quality Places
CS07 Protecting and Enhancing Barnet's Open Spaces
CS09 Providing Safe, Effective and Efficient Travel
CS10 Enabling Inclusive and integrated Community Facilities and Uses
CS12 Making Barnet a Safer Place

The Development Management Policies document provides the borough wide

planning policies that implement the Core Strategy.

Relevant Development Management Policies:

DM01 Protecting Barnet's Character and Amenity

DM02 Development Standards

DM03 Accessibility and Inclusive Design

DM13 Community and Education Uses

DM17 Travel Impact and Parking Standards

Relevant Planning History:

Application:	Planning	Number:	H/01250/12
Validated:	10/05/2012	Type:	APF
Status:	DEC	Date:	08/03/2013
Summary:	APC		
Description:	In connection with the creation of an Eruv in Mill Hill, and as an amendment to application H/01834/10 dated 6th July 2010, the construction of pole and wire gateways, 1m high posts known as 'leci' and fencing at the following locations: Site 1: Under the M1 Bridge, Ellesmere Avenue/Westmere Drive (4 x leci) Site 2: Fairway Court, The Fairway (4x 6m high poles and connecting wire) Site 3: Across the Barnet Way (A1) and outside 86 Barnet Way (2 x 4m high poles and 4 x 6m high poles and connecting wire. 4 x leci) Site 4: Courtland Primary School and between 42 & 44 Hankins Lane (2x 6m high poles and connecting wire) Site 5: Top of Bedford Road adjacent to Moat Mount Open Space (fencing) Site 6: NO LONGER REQUIRED Site 7: Highwood Ash, Highwood Hill and between York Lodge and Rafflewood, Highwood Hill (2 x6m high poles and connecting wire) Site 8: Highwood Hill Cottage, Highwood Hill (3 x 4m high poles and connecting wire) Site 9B: The Ridgeway- Sheepwash Pond/ War memorial (2x 6m high poles and connecting wire) Site9B: The Ridgeway- behind the war memorial (fencing) Site 9C: The Ridgeway- outside Bicentennial Building, Mill Hill School and opposite (2x 6m high poles and connecting wire) Site 9D: The Ridgeway- entrance to Mill Hill School and Headmaster's House (2x 6m high poles and connecting wire) Site 10: St Vincents Lane close to the junction with The Ridgeway (2x 6m high poles and connecting wire) Site 11: The Laboratory, Burtonhole Lane and 4 Oakfields, Burtonhole Lane (2x 6m high poles and connecting wire) Site 12: Near Oakfields Cottage, Partingdale Lane and to the rear of Ridgetop House and Elbury, The Ridgeway on Partingdale Lane (2x 3m high poles and connecting wire, fencing and 2x 6m poles and connecting wire) Site 13: Bray Road at the junction of Bittacy Hill (3x 6m high poles and connecting wire) Site 14: Entrance to Mill Hill Depot, Bittacy Hill (3x 6m high poles and connecting wire) Site 15: Entrance to Bittacy Business Centre, Bittacy Hill (2x 6m high poles and connecting wire) Site 16: M1 Junction 2/ Great North Way (3x leci) Site 17: Foot tunnel under Midland Mainline, Grahame Park Way (2x leci) Site 17A: A41 Bridge over old M1 junction 2 (Pentavia side) (2x leci) Site 17B: Bunns Lane backing onto M1 old junction 2 (fencing) Site 17C: Bunns Lane east of M1 bridge east of Dove Close (fencing) Site 17D: Bunns Lane/ M1 bridge (2x leci) Site 18: Bianca Court, Bunns Lane & 1 Langley Park (2x 6m high poles and		

connecting wire).
Case Officer: Clive Townsend

Background Planning History:

B/03772/11: Barnet Eruv. The construction of pole and wire gateways, or 1m high posts (lechi) at various locations. Planning permission granted 12.11.12.

B/03356/11: Woodside Park Eruv. The construction of poles and wire, or wooden gateways, or 1m high posts (lechi) at various locations. Planning permission granted 23.10.12.

H/01834/10: Mill Hill Eruv, 19 Sites in the Mill Hill Area. Planning permission granted 6.7.10

H/00921/09: 9 sites around the Edgware Area to Complete the Stanmore/ Canons Park Eruv. Planning permission granted 25.6.09

W13797/04: Edgware Area Eruv. 39 poles for the purpose of establishing an Eruv in the Edgware area. Planning permission granted 24.11.04

Finchley, Golders Green and Hendon Eruv (Known as the North West London Eruv)
Eruv1: Erection of groups of poles between which is suspended at high level a wire to designate the perimeter of a nominated "Eruv". Planning permission refused 24.02.1993.

Eruv2: Installation of street furniture (comprising groups of poles connected by thin high level wire) to complete the identification of the perimeter of a defined Eruv. Planning permission refused 27.10.1993.

Appeals against the refusal of Eruv1 and Eruv2 were heard at a Public Inquiry in December 1993. On 20.09.1994 the Secretary of State for the Environment allowed both appeals and granted planning permission subject to conditions.

Eruv 3 and 4: Erection of street furniture comprising groups of poles (usually 2) between which is suspended at high level a wire to designate the perimeter of a nominated Eruv. Planning permission granted 08.01.1997 and 7.7.1998.

Consultations and Views Expressed:

Neighbours Consulted:	268	Replies:	18
Neighbours Wishing To Speak	0		

14 letters of objection have been received. The objections raised may be summarised as follows:

- Proposal is a sign of intolerance.
- Landscape should not be altered to accommodate religious symbols.
- Religious symbols should be within places of worship.
- Making an allowance for this religious group will lead to demands from other groups.

- The area is multi-cultural.
- There are no synagogues near by and therefore an Eruv is not necessary.
- One group should not impose their beliefs on another.
- This will increase pedestrian activity in an area where there are already high volumes of pedestrians on match days at the Saracens ground.
- Its unnecessary as there are very few orthodox Jews that live in this area.
- The fences between 27 and 29 Bittacy Rise are in private ownership.
- There is already a lot of street clutter in the area and the poles will add to this and further detract from the character and appearance of the area.
- The description of development for site 302 (Sanders Lane) is incorrect.
- The proposal will adversely effect existing open space.
- The proposals will attract graffiti.
- Proposal contrary to the NPPF in regards to standards of good design. Where benefit to a minority of individuals is marginal there can be no justification on broader equality grounds to set aside Barnet's adopted inclusive design policy to the detriment of local residents.
- Proposals will be a safety hazard to pedestrians and cyclists.
- Proposed post in Tavistock Avenue is not on land owned /licensed by the applicant and would be highly visible and inconveniently located.
- Proposed posts are a security risk enabling people to climb over boundary fences.
- 6m high Eruv poles already exist close to site 302 these appear to have been built without consent. These poles are an eyesore. Maintenance of these wires has caused overlooking of adjoining bedroom windows and led to public trees being regularly pruned by private individuals.
- Proposal is an encroachment on non-religious residents.

1 letter of general support was received.

3 letters providing the following comments were received:

- No objection providing it does not stop non-Jewish families moving to the area.
- Permission for the Eruv has already been given this application is just a change to that permission.
- As long as the poles and wires are non-obtrusive there are no objections.

Internal /Other Consultations:

Greenspaces - No comments

Date of Site Notice: 29 May 2014

2. PLANNING APPRAISAL

Background:

Amongst the restrictions accepted by Orthodox Jews are the prohibitions of carrying - which includes the pushing of wheelchairs and pushchair's - from public space to a private space and vice versa, and carrying in a private street, on the Jewish

Sabbath.

This means that within the Orthodox Jewish community disabled members and parents of very young children who cannot walk are restricted to their homes on the Sabbath.

The purpose of an Eruv, which is a complete boundary around a town or district, is to integrate a number of private and public properties into one larger combined space. Consequently, Jewish individuals within the Eruv are then permitted to move objects across, what was before the construction of the Eruv, a public domain-private boundary.

There are three established Eruv in the borough - the Edgware Eruv; the Hendon, Finchley and Golders Green Eruv (known as the North West London Eruv) and the Woodside Park Eruv. The Mill Hill Eruv which was granted consent in 2010 is in the process of being installed.

The extent of an Eruv is formed by utilising continuous local features such as fences or walls alongside roads, railways or terraced buildings. However where continuity is not possible due to breaks in the boundary, e.g. roads, then the breach must be bridged by the erection of, for example, a notional "gateway" formed by poles and wire.

The boundary itself does not require planning permission however the development proposed in this application would complete the boundary where there are any gaps.

The proposal involves development (poles & "wire" and/or fencing) at 3 sites.

The design and sizing of the poles is based on a number of requirements.

Any wire or other feature crossing the public highway must be at least 5.5m above the surface of the road.

However a design case where the wire would be struck by an over-height vehicle or an extremely high wind together has been used to determine the materials and size of poles. The material selected is based on the break strength of the wire to be used (nylon or Kevlar) and its ability to be welded cleanly and without sharp edges. These calculations lead to a diameter of 76mm and a wall thickness of 5mm being the optimum size.

The design of the foundations for the poles have been completed in accordance with the Highways Agency guidelines. This allows for the excavation to be completed from above and quickly by hand. There is no connection underground for any poles.

Experience with other Eruvs has shown that it is possible to place the poles and their foundations extremely close to existing walls and not cause any disturbance to surrounding tree roots or utilities.

The poles are able to be carried by hand and installed without the need for cranes and other mechanical aids. This therefore will mean on installation any traffic and

other disturbance will be limited as much as possible.

Where a pole and wire are only required to be placed over a footpath a slightly smaller 4m pole may be used. In this case a primary concern is to ensure that the wire is not subject to vandalism and is kept out of the way of pedestrians.

In selecting a wire material the key requirement was to try and minimise the diameter and visual effect. The diameter of less than 1/2 mm is equivalent to the visibility of a car from 8km distance. The materials have been selected to minimise any hygroscopic (water absorption) which in an outdoor environment would subject the fibres to damage due to freeze thaw, water and UV light. Yet the materials would need to be weak enough to snap should the wire be struck by any passing over-height vehicle.

It is proposed that the poles to be used will be fabricated from S235 steel, zinc plated and painted either grey or green depending upon their location. All poles will be installed in a ready full finished state however if poles are scratched or if required while in use these may be repainted to ensure consistent high cosmetic standards.

All other materials and works are in line with current street works practices and present no hazard to installation contractors, members of the public and any other contractor working in the street scene once these works are completed.

Protection of the public is a key issue and the design of all the proposed poles has been either in line or exceed current requirements. However in the extremely unlikely event of any incident or injury the Eruv will be maintaining public liability insurance of at least £10m. To date there has been no example of any claim against any Eruv for public liability in the UK.

Should planning permission be granted a series of special licences under Highway legislation will also be required to permit these works to be commenced.

The cost of the Eruv, as well as its annual maintenance, will be borne entirely by the Jewish community. Maintenance and upkeep of all these works and the insurance will be the responsibility of the Mill Hill Eruv Committee. The erection and maintenance of the Eruv boundary will be funded by the committee and will not provide any burden on public finances. Weekly inspections will be carried out of the route to ascertain the integrity of the Eruv and to identify any breakage's that need fixing.

Background to the Mill Hill Eruv:

Planning permission was granted in 2013 for the creation of an Eruv in Mill Hill (our ref: H/1250/12). Permission was granted for 18 sites where poles; fencing and/or leci were required. Work has commenced on implementing this consent.

Before work commenced on implementing the consent, the Mill Hill Eruv committee reviewed each of the approved sites and due to changes in the boundaries and treatments around the Millbrook Park development near Mill Hill East Station it was recognised that the Eruv as consented could not be implemented. Therefore in

order to provide a boundary that achieved the requirements for an Eruv boundary a number of changes would be required. As a result it was proposed not to implement the following consented sites:

Site 13: Bray Road at the junction of Bittacy Hill (3x 6m high poles and connecting wire)

Site 14: Entrance to Mill Hill Depot, Bittacy Hill (3x 6m high poles and connecting wire)

Site 15: Entrance to Bittacy Business Centre, Bittacy Hill (2x 6m high poles and connecting wire)

The current application has therefore been submitted for three alternative sites. The proposal at each of the sites is described and appraised below.

Site 1: Bittacy Hill junction with Engle Park (4 x 6m high poles and connecting wires)

Four 6 m high poles are proposed. Pole number 1 would be sited on adjacent to the end of the brick boundary wall for IBSA house. Pole number 2 would be located approx 28m south of pole number 1 bridging one of the new entrances to Millbrook Park. Pole number 3 would be located approx 19m south of pole 2 in the verge of the Millbrook Park development and opposite the junction with Engle Park. Pole Number 4 would be located on the junction of Bittacy Hill and Engle Park and would bridge the gap of Bittacy Hill. The pole would be located adjacent to the low brick boundary wall for No.1 Engle Park. All poles would be 6m high and connected by wire.

Appraisal: The poles on Bittacy Hill have been located at the back edge of the footpath and would be viewed against the mature vegetation that exists along the boundary of the Millbrook Park development and a number of lamp columns. The pole on the corner of Engle Park and Bittacy Hill would be butted up to an existing boundary wall and again would be viewed against an adjoining lamp column. The proposed poles are therefore not considered to be visually obtrusive or detrimentally impact upon the amenity of adjoining residents. The proposals are therefore considered to comply with the requirements of Policy DM01 of the adopted Local Plan.

No specific objections to this site have been received.

Site 2: Footpath between 27 and 29 Bittacy Rise (2 x 3m poles and tie bar)

A small footpath runs between 27 and 29 Bittacy Rise providing pedestrian access from Bittacy Rise to Bittacy Hill Park. Bittacy Rise is a residential street characterised by two storey semi detached post-war suburban housing. Two 3m high poles are proposed. The proposed poles would be located on the footpath abutting the boundary fences to the rear gardens for Nos. 27 and 29 Bittacy Rise. The proposed poles would be set approx 0.5m back from the entrance to the park. The proposed poles would be wooden and connected by a steel tie bar.

Appraisal: The proposed poles have been located back from the entrance from the

park so as not to interfere with the root systems of the mature trees and vegetation on this boundary. The proposed poles would be wooden in order to minimise their visual impact and it is considered that when viewed from either the park or the rear windows/gardens of the adjoining properties they will be viewed against the backdrop of this vegetation and therefore it is considered that their visual impact would be minimal. The proposals are therefore considered to comply with the requirements of Policy DM01 of the adopted Local Plan.

The following specific objections were received in relation to this site:

- The fences between 27 and 29 Bittacy Rise are in private ownership.
- The proposal will adversely effect existing open space.

Officers Comments:

- Land ownership is not a material planning consideration.
- The proposed poles have been located as sensitively as possible to minimise their impact on the adjoining open space.

Site 3: Sanders Lane (footpath) junction of Tavistock Avenue (3 x 6m poles, wire and fencing)

Sanders Lane at the junction with Tavistock Close is a pedestrian footpath that links these roads through to Bittacy Hill. Sanders Lane is used by both pedestrians and cyclists. Tavistock Close is part of the new Lidbury Square development. Three 6m high poles and 1.2m high fencing are proposed. Pole 1 would be located at the entrance to Sanders Lane at the back edge of the footpath the partnering pole (Pole 2) would be located on the opposite side of the footpath and the poles would be connected by a wire a third pole would be located adjacent to the boundary with No.12 Tavistock Close/the electricity sub station and would be connected to pole 2 by a spanning wire. In order to provide the continuous boundary necessary for an Eruv to be operative fencing is proposed to either side of the poles located adjacent to the Sanders Lane footpath. The proposed fencing would be 1.2m high powder coated green chain link fencing. The fencing would span a 6m gap between the side boundary of No. 76 Grants Close and Pole 1 and a 20m gap between Pole 2 and the side boundary of No.15 Tavistock Close.

Appraisal: The entrance to Sanders Lane is marked by a series of wooden bollards with a grassed verge behind at the entrance to the footpath, approx 10m back from this a mature laurel hedge is located either side of the footpath and there are a number of lamp columns and poles. This is the proposed location of Poles 1 and 2. Pole 3 would be located on the opposite side of the road adjacent to a 1.8m high close boarded fence and a mature hedge, this pole would be located between two lamp columns. It is therefore considered that given the existing poles and lamp columns and the nature vegetation and trees the proposed poles will not detract from the streetscene or the visual amenity of adjoining residential properties. The proposals are therefore considered to comply with the requirements of Policy DM01 of the adopted Local Plan.

The following specific objections were received in relation to this site:

- There is already a lot of street clutter in the area and the poles will add to this and further detract from the character and appearance of the area.
- The description of development for site 302 (Sanders Lane) is incorrect.
- The proposal will adversely effect existing open space.
- The proposals will attract graffiti.
- Proposals will be a safety hazard to pedestrians and cyclists.
- Proposed post in Tavistock Avenue is not on land owned /licensed by the applicant and would be highly visible and inconveniently located.
- Proposed posts are a security risk enabling people to climb over boundary fences.
- 6m high Eruv poles already exist close to site 302 these appear to have been built without consent. These poles are an eyesore. Maintenance of these wires has caused overlooking of adjoining bedroom windows and led to public trees being regularly pruned by private individuals.

Officer Comments:

- It is acknowledged that there are a number of poles, street signs and lamp columns in the area. However, it is considered that the addition of three poles would not adversely impact on the visual amenity of the area to such a level as to warrant a refusal.
- The description of development - 3 x 6m poles, wires and fencing is considered correct.
- The site is a footpath that is enclosed on either side in the area of the site with boundary fencing. The proposed site is therefore not considered to be open space for planning purposes.
- The poles will be monitored on a weekly basis to ensure that the Eruv boundary is not broken and therefore any graffiti will be picked up and dealt with quickly.
- The poles are located at the back edge of the footpath so as not to hinder access by pedestrians or cyclists.
- Land ownership is not a material planning consideration.
- As with the poles already granted consent under H/1250/12 if Members are minded to approve the application a condition requiring the poles to be painted with anti-climb paint is recommended.
- The alleged unauthorised Eruv poles have been passed through to the enforcement team for investigation.

3. PLANNING CONSIDERATIONS

The proposal falls to be considered against the relevant development plan policies, in each of the appraisal sections above the individual sites have been assessed against the relevant general planning policies in terms of their visual impact.

With regards to specific policy support for the principle of the proposal, this can be found at Policy CS10 of the Adopted Core Strategy which seeks to ensure that community facilities are provided, including places of worship, for Barnet's communities. Development management Policy DM13 in respect of community uses seeks to ensure that there is no significant impact on the free flow of traffic and road

safety and will be expected to protect the amenity of residential properties. Depending on the location of the proposed poles; “wire” and fencing different policies will apply. The policies in respect of Character, Design, Road Safety will apply almost universally, more specific policies such as those relating to conservation areas will depend on the precise location of the proposals.

3. COMMENTS ON GROUNDS OF OBJECTIONS

The majority of these have been considered in the section above. However, the following specific responses can be made:

- The Eruv is considered necessary by the Orthodox Jewish community who form part of the population of Barnet.
- The borough has the benefit of a number of established Eruvs and it has not been found to lead to racism or vandalism.
- The boundary of the Eruv has been drawn up by the Eruv committee to meet the needs of its membership.
- The council has not experienced applications from other pressure groups as a result of other Eruv applications elsewhere in the borough. Any application from any group or individual will be considered on its merits and judged against adopted policy and national legislation.
- The council acknowledge we live in a multi-cultural society and as set out in Policy CS10 the Council seeks to meet the needs of all of its communities.
- The experience from other Eruvs within the borough is that they haven't lead to an increase in anti-Semitic incidents.
- The proposed Eruv is not considered to increase the risk of crime.
- The proposed Eruv does not contain any religious symbols.

4. EQUALITIES AND DIVERSITY ISSUES

The Equality Act 2010 (the Act) came into force in April 2011. The general duty on public bodies is set out in Section 149 of the Act. The duty requires the Council to have due regard to the need to eliminate discrimination and promote equality with regard to those with protected characteristics such as race, disability, and gender including gender reassignment, religion or belief, sex, pregnancy or maternity and foster good relations between different groups when discharging its functions.

Equality duties require Authorities to demonstrate that any decision it makes is reached in a fair, transparent and accountable way, considering the needs and the rights of different members of the community. This is achieved through assessing the impact that changes to policies, procedures and practices could have on different protected groups.

Section 149 provides:

(1) A public authority must, in the exercise of its functions, have due regard to the need to:-

- eliminate discrimination, harassment, victimization and any other conduct that is prohibited by or under this Act;
- a. advance equality of opportunity between persons who share a relevant protected

- characteristic and persons who do not share it;
- b. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to-

- a. remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b. take steps to meet the needs of persons who share a relevant protected characteristic that are different to the needs of persons who do not share it;
- c. encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(3) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular steps to take account of disabled persons disabilities.

(4) Having due regard to the need to foster good relations between persons who share relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to-

- a. tackle prejudice, and
- b. promote understanding.

(5) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(6)The relevant protected characteristics are-

- age;
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Equalities impacts evidence gathering

There has been extensive consultation on the equalities impacts of this proposal. With an equalities questionnaire being sent to all consultees requesting their views on the potential equalities impact of the development on protected groups in the area who might be affected by the scheme.

Analysis of relevant impacts on protected groups

It is considered that the following protected groups will potentially be affected by the proposal:

- Jews
- Other faith groups Bahai, Buddhist, Christian, Hindu, Jain, Muslim, Sikh
- Secular Groups – Agnostic, Atheist, Humanist
- Disabled people
- Elderly Jews
- Young children and parents of young children who are Jewish
- Jewish women (on the assumption that these have greater childcare responsibility)

Before analysing the potential impact of the proposal on each of these groups it must be acknowledged at the outset that monitoring and assessing religious equality or equality between people with different beliefs can be difficult. Varying levels of commitment to particular religious or beliefs can make it difficult to interpret the information gathered. For example, in this case there may be significant differences between someone who loosely identifies themselves as culturally Jewish but does not practice the Jewish faith and an orthodox Jew who observes the Sabbath and refrains from “carrying” on that day except within an Eruv.

Orthodox Jews

In the absence of an Eruv, it is forbidden under Jewish law to carry (which includes pushing and pulling) in a public thoroughfare on the Sabbath and on the Day of Atonement. Clearly the impact of this prohibition will vary between persons depending how observant they are of the Jewish Laws.

The Jewish Community comprises 15% of Barnet’s population. This prohibition has the following potential adverse impacts on the very young, the very old and the disabled members of the Jewish Community who observe the Sabbath.

Parents cannot utilize a pram or pushchair to take their baby/young child with them to the synagogue or anywhere else such as to friends, elations etc. In effect this means that children aged two and under may be housebound and unable to attend synagogue. The same will be true for at least one of their parents, a situation that would persist until all the children in a family are able to walk to synagogue and back.

The elderly will often walk with the aid of a walking stick or some other form of aid, this cannot be done on the Sabbath without transgressing Jewish law.

Disability takes various forms and those who require an appliance such as wheelchair, walking stick, zimmer frame to get out and about cannot make use of such aids in a public thoroughfare without transgressing Jewish Law on the Sabbath.

The prohibition also applies to the carrying of medication such as pills, nebulisers etc. unless the absence of such medication were life threatening. Less obviously Jewish law also prevents the carrying of reading glasses whilst walking.

The introduction of the Eruv would directly benefit these members of the Jewish community who are adversely affected as described.

Other members of the Jewish community would also benefit indirectly from the lifting of this restriction on their friends and family members thus enabling all to socialize

and worship together on the Sabbath.

The majority of the Jewish community who completed the questionnaire were in favour of the proposal. The most common point made being the benefit that the Eruv would bring to the Jewish community.

Other Faith Groups

Other protected groups who may be impacted by the Eruv development by virtue of their religious beliefs include members of the Bahai, Buddhist, Christian, Hindu, Jain, Muslim, and Sikh communities who comprise a combined total of 73% of the borough's population.

Based on the equalities questionnaires distributed in respect of this application of the total of 12 questionnaires that were returned completed (or partially completed) 3 (25%) were completed by persons within these groups. The only faith group represented within this section were Christians of which only 1 objected to the proposal.

Of the 3 questionnaires returned by persons within these groups the main objections/concerns raised by members of these groups were:

- Unnecessary waste of money at a time when council resources are stretched.

The cost of the instillation and maintenance of the Eruv is being met by the applicant and not the Council. Therefore there is no impact on the Council in terms of funding.

Officers recognise the concerns about the perceived impact that the Eruv development will have on the religious beliefs of members of other faiths in the community. The effect of this on the individual will vary from person to person and there is clearly an inherent difficulty in assessing equality issues not only between people with different beliefs but also between persons sharing the same belief. The level of commitment to a particular religion or belief will vary from person to person.

However these identified impacts on members of other faith groups must be balanced against the following considerations:-

- The proposed Eruv equipment comprising poles, wire, and fencing will not display any Jewish or any other religious symbolise that would allow them to be readily identified as being of religious significance.
- The proposed poles would be up to 6 m high and connected in places by relatively thin wire. Officers consider that they would appear as part and parcel of the variety of street furniture with no discernible religious significance. In addition the poles and equipment will be located where possible at the back edge of the pavement so as not to stand out or draw undue attention in the general street scene.

The physical impacts of the proposed Eruv equipment have been considered on a site by site basis earlier in this report. Officers consider that the siting of the Eruv equipment would not result in visual obtrusions such as to warrant refusal of the

proposal and the equipment could be readily assimilated into the general street scene.

There are already Eruvim in existence in Barnet, and the operation of these provides useful evidence as to how the proposed scheme is likely to operate and the likely potential impacts of the scheme on protected groups.

Officers recognise and have had due regard to the strongly held views of members of other faith groups about the potential negative impacts of the Eruv of their beliefs and local environment. However, officers consider that these concerns are mitigated by the experience of the form and operation of other Eruvim in the borough where there is no evidence that these concerns have been borne out in practice. The potential adverse impact of the proposal on these protected groups also needs to be balance against the positive outcome that the proposal will have through enabling the very young, elderly and disabled members of the Orthodox Jewish community to be able to worship at the Synagogue on the Sabbath.

Secular Groups

This group includes Atheists, Agnostics and Humanists. A total of 3 (25%) completed questionnaires were received from members of these communities, of which all 3 objected to the proposal. Members of secular groups and non religious persons make up 13% of Barnet's population.

The key concerns raised by the objectors were:

- Any physical article erected by any religious sect is unwelcome in a secular society.
- Proposal is a sign of intolerance.
- Landscape should not be altered to accommodate religious signs from an extremist religious group.
- Religious symbols should be within places of worship.
- By allowing this application, other applications from other religious groups will be encouraged.

It is evident from the consultation that these concerns together with the objections in respect of the potential imposition of religious symbols / designation on members of other faith groups and secular persons are strongly held views by those who responded.

It is considered that these perceived adverse impacts are mitigated by the following:

- The successful operation of existing Eruvim elsewhere in this borough and in neighbouring authorities where there is no evidence that an Eruv gives rise to tension between secular and religious groups.
- The Eruv equipment does not carry any Jewish symbolism and is usually seen as part and parcel of the normal street furniture in a suburban location.

The harm that members of secular groups perceive could arise from the proposal is significantly outweighed by the advantages that the proposal will bring to the very young, elderly and disabled members of the Jewish Community.

Disabled people

A total of 1 questionnaire (8.3% of the total returned) was completed by persons who stated that they have a disability under the Disability Discrimination Act definition ("a physical or mental impairment that has a substantial and long term adverse effect on his or her ability to carry out normal day-to-day activities"). The questionnaire was completed by a member of the Jewish community, however in their response they didn't refer to any specific benefit to them.

Potential negative impacts on disabled people

Although this was not a point raised in questionnaires responses, there may be a potential impact on partially sighted/blind persons whereby the equipment could create a trip or collision hazard which could have a serious effect on their safety and general wellbeing.

Officers consider that the sites for the equipment have been carefully chosen so as to prevent a trip or collision hazard arising. The Eruv poles themselves are 76mm in diameter so are relatively thin structures that can be sited at the back edge of the pavement so as to minimise intrusion onto the footway. The Eruv poles are considerably smaller than many items of street function that can be erected without the need of any planning permission. The location of the Eruv poles has also had regard to existing street furniture in the area and the relationship with other equipment so as not to be prejudicial to highway or pedestrian safety.

The councils Highways Group, who are directly responsible for highway and pedestrian safety on the Borough's roads have been consulted throughout the process and have no objections to the proposal. The impact of street furniture on safety of all road users, including disabled members of the community is a paramount consideration.

In addition to planning permission being necessary, the equipment also needs to be licensed by the appropriate highway authority. This is a separate procedure to the planning process and if, in consideration of these licences the authority have concerns in respect of safety then the licence will not be issued.

With regard to the existing Eruvim in the borough there have not been any incidents of the Eruv poles causing an obstruction to free passage or a hazard to disabled people.

Whilst officers accept that the uncontrolled provision of poles on the public highway could result in a hazard to members of the public in general and disabled persons in particular that is not the case with this proposal. Each site has been carefully assessed and it is considered that the siting of the poles would not adversely impact disabled members of the community.

Positive impacts on disabled persons

On the other hand, the proposal would significantly and positively benefit disabled members of the Jewish community in that it would enable them to attend the synagogue for worship on the Sabbath as well as generally being able to leave their houses to socialise with friends and family on those days. It would in effect give them

the same opportunity to join in the spiritual and social life of their community, as well as the wider community on the Sabbath in accordance with the Equality Act.

Overall, officers consider that the potential limited adverse impacts of the proposal on disabled members of the community are outweighed by the positive benefits that would accrue to the disabled members of the Jewish community.

Elderly People

There is a degree of overlap between the potential benefits and negative impacts of the proposal on elderly people and those persons who are disabled.

Positive impacts for elderly Orthodox Jews

Elderly persons may need to use walking aids such as a walking stick in order to feel more confident and safe when walking. They may also need the help of spectacles for reading and need to take medication at frequent and regular intervals. Without an Eruv elderly Orthodox Jews are prohibited from carrying these items on the Sabbath and as such may be housebound and unable to attend synagogue.

The implementation of the Eruv will allow elderly Orthodox Jews to participate in religious and communal activities more easily.

Of the 4 questionnaires completed by members of the Jewish community, 2 (16.6%) were completed by elderly persons (65 +) neither of whom supported the proposal.

Whilst no specific objections were raised in respect of any potential negative impacts that the Eruv would have on the elderly, of whatever belief, it is nevertheless considered that similar negative impacts could arise as for disabled persons, for example potential impacts in relation to greater obstructions on the pavement etc.

Overall it is considered that the Eruv would bring significant benefits to elderly members of the Jewish community, as described in the previous section. Conversely the Eruv could have potential negative impacts as identified in the previous section but it is considered that these concerns have been addressed.

The proposal would have clear and significant benefits for elderly members of the Jewish community which outweigh the potential limited harm to elderly members of the community arising from the installation of the proposed equipment.

Young Children and parents of young children in the Jewish Community

Without an Eruv, very young children that have not reached walking age or are only capable of walking short distances would not be able to leave their home on the Sabbath to go to the synagogue to worship or go out for any other activity.

Due to childcare responsibilities, at least one parent would similarly be effectively housebound. Moreover, it is likely that mothers would have a greater childcare responsibility and therefore are likely to be disproportionately affected.

The introduction of the Eruv would enable the use of pushchair's, pram's etc for taking children out on the Sabbath. This would provide greater equality of opportunity not only for the children themselves but also their carer's. In addition there would be

indirect benefits to the wider community from being able to include all members in the various activities.

Officers consider that the proposal would positively benefit members of this particular group. No noteworthy potential adverse impacts on members of this group have been highlighted or drawn to officers attention through the consultative process.

Fostering Good relations

With regard to the Public Sector equality duty S149 (5) of the Equality Act 2010 requires that the Council have due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it. This involves having due regard, in particular, to the need to:-

- (a) Tackle prejudice and
- (b) Promote understanding”

It is considered that the planning application itself provides an opportunity for inter religion understanding to be promoted. The promotion of the planning application and public consultation which outlines the role of the Eruv has provided an insight into the practices of the Orthodox Jewish Community to other local people.

Overall conclusion on equalities impacts

In determining this planning application the LPA must have due regard to the equalities impacts of the proposed Eruv on those persons protected under the Equality Act 2010. This Act requires the LPA to demonstrate that any decision it makes is reached in a fair, transparent or accountable way considering the needs and rights of different members of the community.

The potential equality impacts both positive and negative have been weighed in the case of each of the affected protected groups. Any equalities impacts have also to be analysed in the context of the overall planning merits of the scheme and the benefits it will confer particularly on elderly, disabled and young members of the Orthodox Jewish Community.

Officers consider that proposal has the potential to generate certain negative impacts on groups with the protected characteristics of age, disability, religion or belief.

There have been objections to the application made in respect of religious or belief characteristics. A number of people feel strongly against the Eruv and have taken the time and trouble to detail those objections.

However, officers consider that in practice the development would not change the use of the land nor impose any changes in behaviour on others. The development proposed would not prevent walking along the pavement, driving or change the behaviour of any groups who do not currently observe the Sabbath.

The creation of the Eruv itself does not require planning permission as most of the boundary does not involve development for the purposes of the Town and Country Planning Act 1990. The application comprises street furniture, poles joined at the top by “wire” and fencing.

Besides the poles and “wire” there are no other manifestations delineating the Eruv boundary. The development would not display any signage or religious symbol.

No one group would be directly disadvantaged by the Eruv, however those Jews who do not wish to transgress Jewish Law would benefit. There would be benefits from the proposals to groups with protected characteristics, including parents and grandparents of young children, the disabled and their families, and the elderly.

Officers consider that the benefits to these protected groups would outweigh the potential harm to members of other protected groups, outside of the Jewish community.

5. CONCLUSION

The NPPF advises that the purpose of the planning system is to contribute to the achievement of sustainable development which it advises has three dimensions; economic, social and environmental. It is considered that this application is promoted by the social dimension in that it reflects the community's needs and supports its health, social and cultural well being.

The environmental dimension of sustainable development is also relevant in respect of the need to protect and enhance the natural, built and historic environment needs to be taken into account in the consideration of this application.

The application is also supported by the London Plan, in particular policy 3.16 which seeks the protection and enhancement of social infrastructure.

In addition the application has the support of the Council's development plan policies.

Each individual Eruv equipment site has been assessed in detail and in each case it is considered that the proposal would be acceptable in terms of its impact on the visual amenities of the area and the amenities of neighbouring residents.

The proposed site and siting of the proposed equipment on the public highway has been carefully considered in respect of highway safety in general and the potential impact the development could have on the ability of disabled persons to use the public highway. Officers consider that the proposal is acceptable in this regard.

The potential impacts of the proposal on persons with characteristics that are protected by the Equality Act 2010 have been taken into account in the consideration of this application. No one group would be directly disadvantaged by the Eruv, however those Jews who observe Jewish Law against carrying on the Sabbath would benefit. There would be benefits from the proposals to groups with protected characteristics, including parents and grandparents of young children, the disabled and their families, and the elderly.

Officers consider that the benefits to these protected groups would outweigh the potential harm to members of protected groups, outside of the Jewish community as

previously addressed.

Eruvim already exist elsewhere in the borough and officers have visited these to assess the impact that the equipment has on the character and appearance of those areas. Officers consider that the Eruv equipment has no adverse impact and readily assimilates into the street scene. Similarly there is no evidence that the concerns raised in respect of the potential adverse impacts of the proposal on protected groups have materialised.

The proposals are considered to be acceptable and approval is recommended subject to conditions.

REFERENCE: H/02182/14

